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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4085

12 **MARTHA PEREZ SOLAREZ**  
429 W. 6th Street  
13 Oxnard, CA 93030

**ACCUSATION**

14 Pharmacy Technician License No. TCH 77320

15 Respondent.

16  
17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

22 2. On or about May 19, 2008, the Board of Pharmacy issued Pharmacy Technician  
23 License Number TCH 77320 to Martha Perez Solarez (Respondent). The Pharmacy Technician  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on January 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

**STATUTORY PROVISIONS**

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2       4.   Section 118, subdivision (b), provides that the suspension, expiration, surrender or  
3      cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
4      action during the period within which the license may be renewed, restored, reissued or  
5      reinstated.

6       5.   Section 490 provides that a board may suspend or revoke a license on the ground that  
7      the licensee has been convicted of a crime substantially related to the qualifications, functions, or  
8      duties of the business or profession for which the license was issued.

9       6.   Section 4300, subdivision (a), states that "[e]very license issued may be suspended or  
10     revoked."

11      7.   Section 4301 states, in pertinent part:

12          "The board shall take action against any holder of a license who is guilty of unprofessional  
13         conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

14         Unprofessional conduct shall include, but is not limited to, any of the following:

15             ....

16             "(f)   The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
17         corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
18         whether the act is a felony or misdemeanor or not.

19             "(g)   Knowingly making or signing any certificate or other document that falsely  
20         represents the existence or nonexistence of a state of facts.

21             ....

22             "(j)   The violation of any of the statutes of this state, or any other state, or of the United  
23         States regulating controlled substances and dangerous drugs.

24             ....

25             "(l)   The conviction of a crime substantially related to the qualifications, functions, and  
26         duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
27         (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
28         substances or of a violation of the statutes of this state regulating controlled substances or

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
3 The board may inquire into the circumstances surrounding the commission of the crime, in order  
4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
5 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
8 of this provision. The board may take action when the time for appeal has elapsed, or the  
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
13 indictment.

14 . . . .

15 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
17 federal and state laws and regulations governing pharmacy, including regulations established by  
18 the board or by any other state or federal regulatory agency. . . . "

19 8. Section 4324, subdivision (a), states:

20 "Every person who signs the name of another, or of a fictitious person, or falsely makes,  
21 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any  
22 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the  
23 state prison, or by imprisonment in the county jail for not more than one year."

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1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1770, states:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license  
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
7 licensee or registrant to perform the functions authorized by his license or registration in a manner  
8 consistent with the public health, safety, or welfare."

9 **COST RECOVERY**

10 10. Section 125.3 states, in pertinent part, that the Board may request the administrative  
11 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
12 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
13 case.

14 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

15 11. Suboxone, the brand name of buprenorphine and naloxone, is classified as a  
16 Schedule IV controlled substance pursuant to Health and Safety Code section 11058(d), and is a  
17 dangerous drug pursuant to section 4022.

18 12. Health and Safety Code section 11875 states, in pertinent part:

19 "The following controlled substances are authorized for use in replacement narcotic therapy  
20 by licensed narcotic treatment programs:

21 . . . .

22 "(c) Buprenorphine products or combination products approved by the federal Food and  
23 Drug Administration for maintenance or detoxification of opioid dependence. (d) Any other  
24 federally approved controlled substances used for the purpose of narcotic replacement treatment."

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Convictions of Substantially Related Crimes)**

27 13. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,  
28 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the

1 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially  
2 related to the qualifications, functions or duties of a registered pharmacy technician which to a  
3 substantial degree evidence her present or potential unfitness to perform the functions authorized  
4 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

5 a. On or about September 13, 2011, after pleading nolo contendere, Respondent was  
6 convicted of one misdemeanor count of violating Health and Safety Code section 11171(a)  
7 [obtaining controlled substance by fraud, to wit, Suboxone] in the criminal proceeding entitled  
8 *The People of the State of California v. Martha Solarez* (Super. Ct. Ventura County, 2010,  
9 No. 2010021798MA). The Court sentenced Respondent to two (2) days jail and placed her  
10 on 36 months probation.

11 b. The circumstances underlying the conviction are that on or about June 16, 2010,  
12 Respondent, while representing that she was telephoning from a doctor's office and using her  
13 maiden name, placed an order with a Rite Aid pharmacist for Suboxone, a controlled substance  
14 and dangerous drug, without a valid prescription.

15 c. On or about January 29, 2003, after pleading guilty, Respondent was convicted of one  
16 misdemeanor count of violating Vehicle code section 23152(b) [drive with an equal to or greater  
17 than 0.08% blood alcohol content (BAC)] in the criminal proceeding entitled *The People of the*  
18 *State of California v. Martha Solarez* (Super. Ct. Ventura County, 2003, No. 2003000129MA).  
19 The Court sentenced Respondent to five (5) days jail, placed her on 36 months probation, and  
20 ordered her to complete a First Conviction Drinking Driver Program.

21 d. The circumstances underlying the conviction are that on or about December 30, 2002,  
22 Respondent while under the tested influence of 0.09/0.08% BAC drove a vehicle.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(False Prescription)**

25 14. Respondent is subject to disciplinary action under sections 4300, 4301,  
26 subdivision (o), and 4324, on the grounds of unprofessional conduct, in that on or about June 16,  
27 2010, Respondent attempted to pass, as genuine, a prescription for the drug Suboxone with Rite  
28 Aid Pharmacy. Complainant refers to and by this reference incorporates the allegations set forth

1 above in paragraph 13, subparagraphs a and b, inclusive, as though set forth fully.

2 **THIRD CAUSE FOR DISCIPLINE**

3 **(Violating Drug Statutes)**

4 15. Respondent is subject to disciplinary action under sections 4300, 4301,  
5 subdivision (j), on the grounds of unprofessional conduct, in that on or about June 16, 2010 or  
6 September 13, 2010, Respondent violated Health and Safety Code section 11171, subdivision (a).  
7 Complainant refers to and by this reference incorporates the allegations set forth above in  
8 paragraph 13, subparagraphs a and b, inclusive, as though set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Misstatement on Application for Licensure)**

11 16. Respondent is subject to disciplinary action under sections 4300 and 4301,  
12 subdivision (g), on the grounds of unprofessional conduct, in that on or about June 18, 2007,  
13 Respondent, under penalty of perjury to the truth and accuracy of all statements, answers and  
14 representations made in the application, knowingly made a false statement of fact required to be  
15 revealed in her application for licensure and procured her license by fraud or misrepresentation.  
16 Respondent answered "No" to question No. 6, when in fact, she sustained a criminal conviction  
17 on or about January 29, 2003. Question 6, states:

18 Have you ever been convicted of or pled no contest to a violation of any law of a  
19 foreign country, the United States or any state laws or local ordinances? You must  
20 include all misdemeanor and felony convictions, regardless of the age of the  
21 conviction, including those which have been set aside under Penal Code  
22 section 1203.4. Traffic violations of \$500 or less need not be reported. **If "yes,"**  
23 **attach an explanation including the type of violation, the date, circumstances,**  
24 **location and the complete penalty received.** In addition to this written explanation,  
25 please provide the Board of Pharmacy with **certified copies of all pertinent court**  
26 **documents or arrest reports relating to this conviction.**

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Fraud, Deceit or Corruption)**

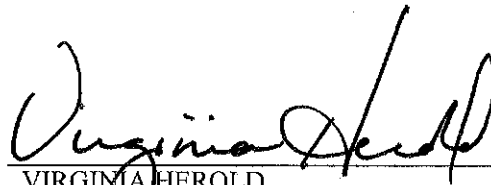
3 17. Respondent is subject to disciplinary action under sections 4300 and 4301,  
4 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts  
5 involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by  
6 this reference incorporates the allegations set forth above in paragraph 13, subparagraphs a and b,  
7 and paragraphs 14 - 16, inclusive, as though set forth fully.

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board issue a decision:

- 11 1. Revoking or suspending Pharmacy Technician License Number TCH 77320, issued  
12 to Martha Perez Solarez;
- 13 2. Ordering Martha Perez Solarez to pay the Board the reasonable costs of the  
14 investigation and enforcement of this case, pursuant to section 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.
- 16

17  
18  
19 DATED: 10/9/12



20 VIRGINIA HEROLD  
21 Executive Officer  
22 Board of Pharmacy  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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