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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **SABRINA MOROLES** **45840 Michell Lane** **Indio, CA 92201** **Pharmacy Technician Registration No. TCH 27620** Respondent.	Case No. 4281 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about November 3, 1998, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 27620 to Sabrina Moroles (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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

5. Section 4300, subdivision (a), of the Code states that every license issued may be suspended or revoked.

STATUTORY PROVISIONS

6. Section 480 of the Code states:

> (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
>
> (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of *nolo contendere*. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
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> (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
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> (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
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> (B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.
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> (b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.
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> (c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially

related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

> Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.
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> As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

9. Section 4301 of the Code states:

> The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:
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> . . . .
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> (j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.
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> . . . .
>
> (l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal

Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

. . . .

(p) Actions or conduct that would have warranted denial of a license.

. . . .

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

. . . .

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

COST RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

(January 10, 2012 Conviction As Accessory to Attempted Murder On October 15, 2010)

13. Respondent subjected her license to discipline under sections 490 and 4301, subdivision (l) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed pharmacy technician. The circumstances are as follows:

a. On or about January 10, 2012, in a criminal proceeding entitled *The People of the State of California vs. Sabrina Moroles*, in Riverside County Superior Court, Case Number INF10002381, Respondent was convicted on her plea of guilty to violating Penal Code (PC), section 32, accessory to the felonies of attempted murder and assault with a firearm. Respondent was charged with violation of PC section 664 and 187, attempted murder and PC section 245, subsection (a)(2), assault with firearm on person, felonies, which were dismissed upon a non guilty plea on a plea bargain of pleading guilty to the charge that led to conviction for violating PC section 32, accessory.

b. As a result of the conviction, on or about January 10, 2012, Respondent was sentenced to three years formal probation, and ordered to submit to the custody of the Riverside County Sheriff for 90 days with credit for 8 days actually served and 4 days for good conduct, and complete the balance of 78 days in LCA Electronic Monitoring Program in lieu of county jail. Respondent was also ordered to pay $490.34 in fees, $480.00 in fines, the Secure Continuous Remote Alcohol Monitoring (SCRAM) Program monitoring and installation fees, and the cost of probation supervision.

c. The facts that led to the conviction are that on or about October 15, 2010, in the City of Indio, California, Respondent's boyfriend and the victim got into an argument. During the argument, Respondent's boyfriend tossed his car keys to Respondent and told her to get his gun from his car. Respondent took her boyfriend's car keys, retrieved the gun, and tossed the gun to her boyfriend. The victim immediately began running away from the boyfriend, who fired five or six bullets at the victim hitting him in the back of his left bicep, and in his left buttocks, this bullet exited his left front groin area. Respondent drove the get away car that she

and her boyfriend fled the scene in. Shortly after the shooting, Respondent was apprehended by the Indio Police Department.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, and Corruption)

14. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the Code in that on or about October 15, 2010, Respondent knowingly and voluntarily participated in the commission of an attempted murder. Respondent aided the assailant by retrieving the gun that was used to shoot the victim and aided the assailant in driving him away from the scene of the crime. By actively assisting in the crime, Respondent committed an act involving moral turpitude, as detailed in paragraph 13, above.

THIRD CAUSE FOR DISCIPLINE

(Conduct That Would Have Warranted Denial of a License)

15. Respondent is subject to disciplinary action under section 4301, subdivision (p) of the Code in that Respondent was convicted as accessory to the felonies of attempted murder and assault with a firearm, conduct that would have warranted the denial of a pharmacy technician registration under section 480, subdivision (a)(1) of the Code, as detailed in paragraph 13, above.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 27620, issued to Sabrina Moroles;

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2. Ordering Sabrina Moroles to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: March 29, 2012

James M. Fedakis for Virginia Herold

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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