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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4965

11 **RENEE MIRAMONTES**  
12 **901 Via Verde**  
13 **Del Rey Oaks, CA 93940**

**A C C U S A T I O N**

14 **Pharmacy Technician License No. TCH 25714**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

20 2. On or about May 12, 1998, the Board of Pharmacy issued Pharmacy Technician  
21 License No. TCH 25714 to Renee Miramontes (Respondent). The License was in force and effect  
22 at all times relevant to the charges herein and will expire on August 31, 2015, unless renewed.

23  
24 JURISDICTION

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

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1 4. Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or  
7 suspension of a Board-issued license, the placement of a license on a retired status, or the  
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to  
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
10 licensee or to render a decision suspending or revoking the license.

11  
12 STATUTORY AND REGULATORY PROVISIONS

13 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
14 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but  
15 not be limited to, any of the following:

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 (h) The administering to oneself, of any controlled substance, or the use of any dangerous  
20 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
21 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
22 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
23 practice authorized by the license.

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

26 (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
27 of a licensee under this chapter.

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

5 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or  
6 revoke a license when it finds that the licensee has been convicted of a crime substantially related  
7 to the qualifications, functions or duties of the license.

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

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

15 10. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous  
16 drug or dangerous device except upon the prescription of an authorized prescriber.

17 11. Section 4060 of the Code provides, in pertinent part, that no person shall possess any  
18 controlled substance, except that furnished upon a valid prescription/drug order.

19 12. Health and Safety Code section 11170 provides that no person shall prescribe,  
20 administer, or furnish a controlled substance for himself or herself.

21 13. Health and Safety Code section 11173, subdivision (a), provides that no person shall  
22 obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
23 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,  
24 or subterfuge; or (2) by the concealment of a material fact.

25 14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess  
26 any controlled substance listed in Schedule II (Health and Safety Code section 11055),  
27 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

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1 COST RECOVERY

2 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.  
5

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. Section 4021 of the Code states:

8 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section  
9 11053) of Division 10 of the Health and Safety Code.”

10 17. Section 4022 of the Code states, in pertinent part:

11 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,  
12 except veterinary drugs that are labeled as such, and includes the following:

13 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
14 prescription,’ ‘Rx only,’ or words of similar import.

15 . . .

16 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
17 prescription or furnished pursuant to Section 4006.”

18 18. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for  
19 compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III  
20 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous  
21 drug as designated by Business and Professions Code section 4022. The varying compounds are  
22 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.  
23

24 FACTUAL BACKGROUND

25 19. Between on or about July 24, 1995 and on or about February 19, 2013, Respondent  
26 was employed as a pharmacy technician by CVS Pharmacy, most recently at a CVS Pharmacy  
27 (PHY 49355) in Carmel, CA, where by virtue of her employment she had access to controlled  
28 substances and dangerous drugs.



1                                    SECOND CAUSE FOR DISCIPLINE

2                                    (Furnishing of Controlled Substance(s))

3                23.    Respondent is subject to discipline under section 4301(j) and/or (o) and/or section  
4    4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described  
5    in paragraphs 19 to 21 above, furnished to herself or another without a valid prescription, and/or  
6    conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.  
7

8                                    THIRD CAUSE FOR DISCIPLINE

9                                    (Possession of Controlled Substance(s))

10              24.    Respondent is subject to discipline under section 4301(j) and/or (o) and/or section  
11    4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described  
12    in paragraphs 19 to 21 above, possessed, conspired to possess, and/or assisted in or abetted  
13    possession of, a controlled substance, without a prescription.  
14

15                                  FOURTH CAUSE FOR DISCIPLINE

16                                  (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

17              25.    Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,  
18    and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs  
19    19 to 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a  
20    controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.  
21

22                                  FIFTH CAUSE FOR DISCIPLINE

23                                  (Conviction of Substantially Related Crime(s))

24              26.    Respondent is subject to discipline under section 4301(l) and/or section 490 of the  
25    Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of  
26    substantially related crime(s), in that on or about August 13, 2013, in the criminal case *People v.*  
27    *Renee Miramontes*, Case No. SS130425A in Monterey County Superior Court, Respondent was  
28    convicted of violating Penal Code section 487(a) (Grand theft > \$400.00), a felony, as follows:

1 a. On or about April 2, 2013, based on the conduct described in paragraphs 19 to  
2 21 above, Respondent was charged by Information in Case No. SS130425A with violating Penal  
3 Code section 487(a) (Grand theft > \$400.00), a felony.

4 b. On or about August 13, 2013, in Case No. SS130425A, Respondent pleaded no  
5 contest to violating Penal Code section 487(a) (Grand theft > \$400.00), a felony.

6 c. On or about September 19, 2013, imposition of sentence was suspended and  
7 Respondent was placed on formal probation for three (3) years on terms and conditions including  
8 sixty (60) days in county jail (4 days CTS), participation in counseling/substance abuse treatment  
9 as ordered by probation, and payment of restitution, fines and fees.

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11 SEVENTH CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 27. Respondent is subject to discipline under section 4301 of the Code in that  
14 Respondent, as described in paragraphs 19 to 27 above, engaged in unprofessional conduct.

15  
16 PRAYER

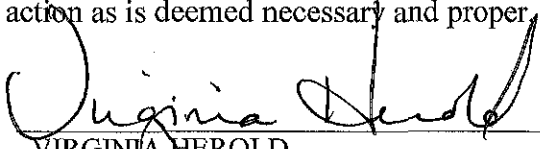
17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
18 and that following the hearing, the Board of Pharmacy issue a decision:

19 1. Revoking or suspending Pharmacy Technician License Number TCH 25714, issued to  
20 Renee Miramontes (Respondent);

21 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
22 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

24 DATED: 2/4/14

25   
26 VIRGINIA HEROLD  
27 Executive Officer  
28 Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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