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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. 5100

12 **RAYMOND MORALES**  
6308 Specht Ave.  
13 Bell Gardens, CA 90201

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

14 Pharmacy Technician Registration  
15 No. TCH 110380

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about July 13, 2011, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician Registration No. TCH 110380 to Raymond Morales (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on March 31, 2015, unless renewed.

25 **JURISDICTION**

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

28 ///

## STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued."

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued."

(c) 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."

5. Section 492 states, in pertinent part:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

6. Section 493 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. As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

1        7.     Section 4060 provides in pertinent part, that no person shall possess any controlled  
2 substance, except that furnished to a person upon the prescription of a physician, dentist,  
3 podiatrist, optometrist, veterinarian, or other authorized prescriber.

4        8.     Section 4300 provides, in pertinent part, that every license issued by the Board is  
5 subject to discipline, including suspension or revocation.

6        9.     Section 4300.1 states:

7                The expiration, cancellation, forfeiture, or suspension of a board-issued  
8 license by operation of law or by order or decision of the board or a court of law, the  
9 placement of a license on a retired status, or the voluntary surrender of a license by a  
10 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
11 investigation of, or action or disciplinary proceeding against, the licensee or to render  
12 a decision suspending or revoking the license.

13        10.    Section 4301 states:

14                The board shall take action against any holder of a license who is guilty  
15 of unprofessional conduct or whose license has been procured by fraud or  
16 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is  
17 not limited to, any of the following:

18                . . . .

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

22                . . . .

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

28                . . . .

              (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.

              . . . .

              (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

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

### 13 REGULATORY PROVISIONS

14 11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

### 22 COST RECOVERY

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

### 27 CONTROLLED SUBSTANCE

28 13. “Norco,” is the brand name for Hydrocodone/APAP. It is a Schedule III controlled  
substance as designated by Health and Safety Code section 11056, subdivision (e)(7), and is  
categorized as a dangerous drug pursuant to section 4022.

### FIRST CAUSE FOR DISCIPLINE

#### **(Conviction of a Substantially Related Crime)**

14 Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
15 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
16 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
17 duties of a pharmacy technician, as follows:

1           a.     On or about June 5, 2013, after pleading nolo contendere, Respondent was convicted  
2 of one misdemeanor count of violating Vehicle Code section 23153, subdivision (a) [driving  
3 under the influence of alcohol or drugs: bodily injury], and one felony count of Penal Code  
4 section 69 [obstruction or resisting an executive officer], in the criminal proceeding entitled *The*  
5 *People of the State of California v. Raymond Morales* (Super. Ct. Los Angeles County, 2013, No.  
6 VA129942). The Court sentenced Respondent to serve 180 days in Los Angeles County Jail and  
7 placed him on 3 years formal probation, with terms and conditions. The circumstances  
8 surrounding the conviction are as follows:

9           (1)    On or about December 7, 2012, during a 4 car traffic collision investigation  
10 involving injuries, by the Whittier Police Department, Respondent was contacted standing next to  
11 his vehicle. Upon approaching Respondent's vehicle, the officer observed a large amount of beer  
12 cans on the floorboard of the passenger side floorboard.

13           (2)    While speaking to Respondent, the officer observed Respondent to have red  
14 watery eyes, mumbled his responses, and stumbled into the #1 lane of eastbound Telegraph Road  
15 traffic. The officer grabbed Respondent by the left arm to prevent him from being hit by vehicles  
16 traveling through this area and escorted him back over to the westbound lanes. The officer held  
17 onto Respondent's right arm and advised him to stay on the north side of the street to prevent him  
18 from being by vehicles. Respondent violently and aggressively pulled away from the officer, as  
19 the officer grabbed his right arm, and fearing that Respondent might flee into traffic the officer  
20 grabbed his other arm in an attempt to secure Respondent.

21           (3)    Respondent continued to resist the officer's commands to stop fighting and  
22 began pulling his arms away in an aggressive manner and took a combative stance as he was  
23 ordered to stop resisting. The officer grabbed Respondent's right arm, but Respondent pushed  
24 him away. The officer lost control of Respondent, while his right leg was wedged in between  
25 Respondent's legs. As the officer fell, Respondent tripped over the officer's right leg, and fell to  
26 the ground, causing the officer to hit his head on the asphalt. The officer grabbed Respondent, as  
27 he attempted to flee the area, and again they both fell onto Respondent's car. The officer pleaded  
28 with Respondent to stop being combative, but Respondent refused the officer's requests, and

1 continued to resist his orders. Another officer informed Respondent to stop resisting or he could  
2 possibly be tased. Respondent continued fighting with the officers and was advised two more  
3 times to stop fighting or he would be tased. The other officer tased Respondent on the back of his  
4 neck, Respondent went down, and continued to refuse to bring his hands behind his back, until  
5 he was tased a second time, and restrained in handcuffs. Respondent was transported to the  
6 hospital for an evaluation and submitted to a blood test that resulted in a blood-alcohol content  
7 level of 0.06%. Respondent was subsequently arrested for violating Vehicle Code section 23153,  
8 subdivision (a) [driving under the influence of alcohol or drugs: bodily injury] and Penal Code  
9 section 243, subdivision (b) [battery against peace officer].

10 b. On or about November 11, 2013, pursuant to a plea agreement, after pleading nolo  
11 contendere, Respondent was convicted with one misdemeanor count of violating Penal Code  
12 section 484, subdivision (a) [petty theft], in the criminal proceeding entitled *The People of the*  
13 *State of California v. Raymond Morales* (Super. Ct. Los Angeles County, 2013, No. 3CA12128).  
14 The Court deferred pronouncement of sentence for 12 months pending Respondent's completion  
15 of community labor and formal diversion. The circumstances surrounding the charges are that at  
16 the time of the misconduct for which he was charged, Respondent was employed as a pharmacy  
17 technician at CVS Pharmacy (CVS), in Los Angeles, CA. On or about November 2, 2012, CVS  
18 security personnel reviewing surveillance camera videos from November 1, 2012, observed  
19 Respondent taking a bottle from a drawer where Hydrocodone medications were stored and  
20 concealing it under his clothes. Respondent subsequently admitted to taking a container of  
21 Hydrocodone/Apap 10/325 and hid it in his pockets. He did not report to work after that day and  
22 was terminated from CVS. In addition, Respondent admitted that he started to self-medicate in or  
23 about the last two months of his employment with CVS.

## 24 **SECOND CAUSE FOR DISCIPLINE**

### 25 **(Use/Under the Influence of Alcohol and/or a Controlled Substance)**

26 15. Respondent is subject to disciplinary action under section 4301, subdivision (h), in  
27 that, Respondent used and/or was under the influence of alcohol and/or a controlled substance, as  
28 follows:

1 a. On or about December 7, 2012, Respondent drove a vehicle while under the influence  
2 of alcohol or drugs, resulting in bodily injury. Complainant refers to, and by this reference  
3 incorporates, the allegations set forth above in paragraph 14, subparagraph (a), as though set forth  
4 fully herein.

5 b. On or about November 1, 2012, Respondent, by his own admission, admitted that he  
6 started to self-medicate in or about 2 months prior to being terminated from employment at  
7 CVS. Complainant refers to, and by this reference incorporates, the allegations set forth above in  
8 paragraph 14, subparagraph (b), as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Obtained or Possessed a Controlled Substance)**

11 16. Respondent is subject to disciplinary action under section 4301, subdivision (j), as  
12 defined in section 4060, in that on or about November 1, 2012, while working as a pharmacy  
13 technician at CVS, Respondent, by his own admission, stole controlled substances from his  
14 employer for his own personal use. Complainant refers to, and by this reference incorporates, the  
15 allegations set forth above in paragraph 14, subdivision (b), as though set forth fully herein.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Dishonest Acts)**

18 17. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
19 that from on or about November 1, 2012, while working as a pharmacy technician at CVS,  
20 Respondent committed dishonest acts by stealing controlled substances from his employer for his  
21 own personal use. Complainant refers to, and by this reference incorporates, the allegations set  
22 forth above in paragraph 14, subdivision (b), as though set forth fully herein.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacy Technician Registration No. TCH 110380, issued  
27 to Raymond Morales;

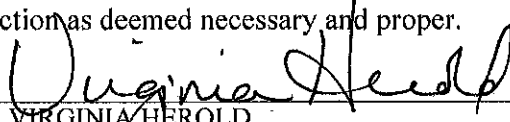
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1           2.     Ordering Raymond Morales to pay the Board of Pharmacy the reasonable costs of the  
2 investigation and enforcement of this case, pursuant to Business and Professions Code section  
3 125.3; and

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

5 DATED: \_\_\_\_\_

6/7/14



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

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