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8
9 **BEFORE THE**
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

10
11 In the Matter of the Interim Suspension Order
Against:

12 **NICOLE YVONNE FLORES**
13 **1374 Hilltop Drive**
Chula Vista, CA 91911

14 **Pharmacy Technician License No. TCH**
15 **81360**

16 Respondent.

Case No. 5520

OAH Case No. 2015070128

**STIPULATED ORDER FOR INTERIM
SUSPENSION OF LICENSE PURSUANT
TO BUSINESS AND PROFESSIONS
CODE SECTION 494**

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties in this
18 proceeding that the following matters are true:

19 1. Virginia Herold (Complainant and Petitioner) is the Executive Officer of the Board of
20 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
21 by Kamala D. Harris, Attorney General of the State of California, by Nicole R. Trama, Deputy
22 Attorney General.

23 2. Respondent, Nicole Yvonne Flores (Respondent), is representing herself in this
24 proceeding and has chosen not to exercise her right to be represented by counsel.

25 3. On July 2, 2015, Petitioner filed a Petition for Interim Suspension Order (Petition)
26 against Nicole Yvonne Flores in Board of Pharmacy Case No. 5520.

27 4. The *ex parte* hearing on the Petition is scheduled for July 8, 2015 at 10:00 a.m. at the
28 Office of Administrative Hearings in San Diego. Respondent hereby waives her right to the *ex*

1 *parte* hearing scheduled for July 8, 2015 on the Petition pursuant to Business and Professions
2 Code section 494.

3 5. In addition, Respondent understands that she is entitled to a noticed hearing on the
4 Petition within twenty (20) days of the issuance of an interim order without notice (noticed
5 hearing). Respondent hereby waives her right to a noticed hearing on the Petition pursuant to
6 Business and Professions Code section 494(c).

7 6. Respondent agrees that her Pharmacy Technician License Number TCH 81360 shall
8 be suspended pursuant to Business and Professions Code section 494. Respondent is hereby
9 prohibited from practicing as a pharmacy technician until a final decision on the Accusation that
10 will be filed in this matter, or until this interim suspension order is modified or vacated.

11 7. Pursuant to Business and Professions Code section 494(f), the Accusation against
12 Respondent shall be filed within 15 days of the issuance of this Order.

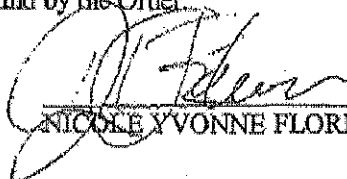
13 8. Respondent understands that she is entitled to a hearing on the Accusation within
14 thirty (30) days after she files a Notice of Defense as is set forth in Business and Professions
15 Code section 494. Respondent hereby waives her right to a hearing within the statutory time
16 deadline set forth in Business and Professions Code section 494 which requires that a hearing on
17 the Accusation shall be held within thirty (30) days following the filing of a Notice of Defense.

18 9. The parties understand and agree that facsimile and electronic copies of this
19 Stipulation, including facsimile signatures thereto, shall have the same force and effect as the
20 originals.

21 ACCEPTANCE

22 I have carefully read the above Stipulated Order for Interim Suspension of License. I
23 understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter
24 into this Stipulated Order for Interim Suspension of License voluntarily, knowingly, and
25 intelligently, and agree to be bound by the Order.

26 DATED:

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28 _____
NICOLE YVONNE FLORES, Respondent

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ENDORSEMENT

The foregoing Stipulated Order for Interim Suspension of License is hereby respectfully submitted for consideration to the Office of Administrative Hearings.

DATED: 7/8/2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General
Nicole R. Trama
NICOLE R. TRAMA
Deputy Attorney General
Attorneys for Petitioner

ORDER

IT IS SO ORDERED pursuant to the above Stipulation that Respondent Nicole Yvonne Flores, Pharmacy Technician License No. TCH 81360 is suspended and Respondent Nicole Yvonne Flores is prohibited from practicing as a pharmacy technician until a final decision on the Accusation in this matter becomes effective, or until this interim suspension order is modified or vacated.

DATED: *July 8, 2015* *Robert Walker*
Presiding Administrative Law Judge
Office of Administrative Hearings

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

12
13 In the Matter of the Accusation Against:

Case No. 5520

14 **NICOLE YVONNE FLORES**
15 **1374 Hilltop Drive**
Chula Vista, CA 91911

A C C U S A T I O N

16 **Pharmacy Technician Registration No. TCH**
17 **81360**

Respondent.

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19
20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about February 26, 2008, the Board of Pharmacy issued Pharmacy
25 Technician Registration Number TCH 81360 to Nicole Yvonne Flores (Respondent). The
26 Pharmacy Technician Registration was in full force and effect at all times relevant to the
27 charges brought herein and will expire on January 31, 2016, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states “Every license issued may be
6 suspended or revoked.”

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 4301 of the Code states:

14 The Board shall take action against any holder of a license who is guilty of
15 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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17 (f) The commission of any act involving moral turpitude, dishonesty,
18 fraud, deceit, or corruption, whether the act is committed in the course of
relations as a licensee or otherwise and whether the act is a felony or
19 misdemeanor or not.

20

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

24

25 7. Civil Code section 56.10 states, in part, that a provider of health care, health care
26 service plan, or contractor shall not disclose medical information regarding a patient of the
27 provider of health care or an enrollee or subscriber of a health care service plan without first
obtaining an authorization.

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1 **COST RECOVERY**

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

6 **FACTUAL ALLEGATIONS**

7 9. Nicole Yvonne Flores was employed as a pharmacy technician at CVS Pharmacy
8 Store Number 9115, located in Imperial Beach (hereinafter “CVS), California, from 2008 until
9 June 2015. In early June 2015, CVS was notified by the Secret Service of the results of a raid
10 on Respondent’s apartment. Secret Service informed CVS that Respondent was in possession
11 of CVS patient records. Subsequently, CVS staff interviewed Respondent on June 10, 2015.

12 10. During an interview with CVS staff, Respondent admitted that she removed patient
13 information from CVS Store Number 9115. Respondent stated that she started taking patient
14 information from CVS Store Number 9115 in May 2013. She admitted that she took one to
15 two profiles once or twice per two weeks. In total, she stated that she took approximately 100
16 patient profiles from CVS Pharmacy. Respondent stated that she took patient information
17 from May 2013 to November 2014 and then again from February 2015 to April 2015. She
18 stated that she would print out patient information when processing prescriptions at the drop
19 off counter. Respondent admitted to printing out the patient information and removing that
20 information from the store by placing it in her pocket.

21 11. Respondent admitted that she gave the patient information to G.M., her property
22 manager. She stated that she would either give the patient profile to G.M. when she saw her
23 or she would provide the information to G.M. via text or e-mail. Respondent stated that G.M.
24 threatened her and told her that she would tell her father, who was in a gang and had been
25 convicted of attempted murder. Respondent admitted that she knew that G.M. was using the
26 patient information to obtain credit and credit cards. She stated that G.M. used the credit cards
27 that she created from the patient information at stores such as Home Depot, Target, Sears,
28 Amazon, Zappos, Pottery Bard, and Justice. She stated that G.M. also used the credit cards at

1 Citibank and Paypal. Respondent admitted that she knew her actions were against CVS
2 policies and procedures. She stated that she knew her actions were wrong and apologized.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Dishonest Act)**

5 12. Respondent has subjected her license to disciplinary action under section 4301,
6 subdivision (f) of the Code in that Respondent committed an act involving dishonesty, fraud,
7 deceit, or corruption, when she stole patient profiles from her employer and gave them to a
8 third party to be used for identity theft purposes, as detailed in paragraphs 9 through 11, above,
9 and which are incorporated herein by reference.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(General Unprofessional Conduct)**

12 13. Respondent has subjected her license to disciplinary action under section 4301, in
13 that Respondent's actions in stealing patient profiles from her employer and giving them to a
14 third party to be used for identity theft purposes constitutes general unprofessional conduct, as
15 detailed in paragraphs 9 through 11, above, and which are incorporated herein by reference.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Violation of Federal and State Laws)**

18 14. Respondent has subjected her license to disciplinary action under section 4301,
19 subdivision (o) of the Code for violating federal and state laws, including the Health Insurance
20 Portability and Accountability Act (HIPAA) and Civil Code section 56.10 as detailed in
21 paragraphs 9 through 11, above, and which are incorporated herein by reference.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 81360,
26 issued to Nicole Yvonne Flores;

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2. Ordering Nicole Yvonne Flores 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: 7/13/15 Virginia Herold

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

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