

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2617
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5679

13 **LETICIA AQUINO**
2513 W. Pendleton Avenue
14 Santa Ana, CA 92704

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 44850**

Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about December 4, 2002, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 44850 to Leticia Aquino (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on October 31, 2016, unless renewed.

27 ///

28 ///

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 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a 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.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

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

1 to fix the degree of discipline or to determine if the conviction is substantially related
2 to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 4301 of the Code states:

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

10

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

14

15 (l) The conviction of a crime substantially related to the qualifications,
16 functions, and duties of a licensee under this chapter. The record of conviction of a
17 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
18 States Code regulating controlled substances or of a violation of the statutes of this
19 state regulating controlled substances or dangerous drugs shall be conclusive
20 evidence of unprofessional conduct. In all other cases, the record of conviction shall
21 be conclusive evidence only of the fact that the conviction occurred. The board may
22 inquire into the circumstances surrounding the commission of the crime, in order to
23 fix the degree of discipline or, in the case of a conviction not involving controlled
24 substances or dangerous drugs, to determine if the conviction is of an offense
25 substantially related to the qualifications, functions, and duties of a licensee under this
26 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
27 contendere is deemed to be a conviction within the meaning of this provision. The
28 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. . . .

22 REGULATORY PROVISIONS

23 10. California Code of Regulations, title 16, section 1769, subdivision (b) states:

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

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

(2) Total criminal record.

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

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

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

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

6 For the purpose of denial, suspension, or revocation of a personal or facility
7 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
8 Professions Code, a crime or act shall be considered substantially related to the
9 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.

10 COSTS

11 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
16 included in a stipulated settlement.

17 FIRST CAUSE FOR DISCIPLINE

18 (September 29, 2014 Criminal Convictions for Identity Theft, Grand Theft & 19 Unlawful Transfer of Identifying Information)

20 13. Respondent has subjected her registration to discipline under sections 490 and 4301,
21 subdivision (l) of the Code in that she was convicted of crimes that are substantially related to the
22 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

23 a. On or about September 29, 2014, in a criminal proceeding entitled *People of the*
24 *State of California v. Leticia Aquino, et al.*, in Los Angeles County Superior Court, case number
25 BA428153, Respondent was convicted on her plea of nolo contendere to violating Penal Code
26 section 530.5, subdivision (a), identity theft; Penal Code section 484g(a), grand theft; and two
27 counts of violating Penal Code section 530.5, subdivision (d)(1), unlawful transfer of identifying
28 information, felonies. In exchange for Respondent's plea, the court dismissed an additional count

1 of identify theft (Pen. Code, § 530.5(a)), a felony.

2 b. As a result of the convictions, on December 4, 2014, the court reduced the
3 felony charges to misdemeanors pursuant to Penal Code section 17(b). As to each count,
4 Respondent was granted summary probation for 36 months, and ordered to perform 15 days of
5 CalTrans service, to be served concurrently. Respondent was ordered to pay fees and fines, and
6 comply with probation terms.

7 c. The facts that led to the convictions are that on or about August 30, 2013, a
8 male inmate at the Los Angeles County Jail was recorded speaking to Respondent, one of the
9 inmate's two girlfriends. The inmate and various accomplices were part of a large-scale identity
10 theft ring wherein credit cards were fraudulently obtained. The inmate used Respondent to
11 withdraw cash from one of the credit card accounts and deposit it into her personal checking
12 account. Respondent would then transfer money to the inmate's jail accounts. Respondent told a
13 Los Angeles County Sheriff's Department detective that she was the inmate's fiancée; they met
14 through a mutual friend who was also incarcerated. On the inmate's instructions, she withdrew
15 cash from the credit card six or seven times in various amounts, and deposited it into her personal
16 account so that the inmate could have money when he was released from jail.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud or Deceit)**

19 14. Respondent has subjected her registration to discipline under section 4301,
20 subdivisions (a) and (f) of the Code for unprofessional conduct in that her conduct, as described
21 in paragraph 13 above, involved moral turpitude, dishonesty, fraud and/or deceit.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 44850,
26 issued to Leticia Aquino;

27 ///

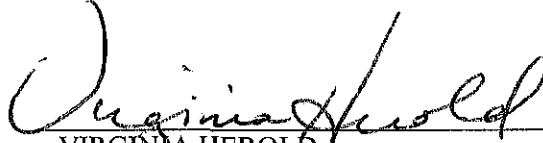
28 ///

1 2. Ordering Leticia Aquino 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;

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

5
6 DATED:

12/22/15



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

10
11 SD2015803069
81210912.doc