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5	BEFORE THE
6	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
7	STATE OF CALIFORNIA
8	In the Matter of the Accusation Against: Case No. 3545
9	In the Watter of the Modulation Against.
10	CHRISTINA MARIE GODINEZ DEFAULT DECISION AND ORDER
11	611 Walnut Lane Hollister, CA 95023
12	Pharmacy Technician Registration No. TCH [Gov. Code, §11520] 86747
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14	Respondent.
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17	FINDINGS OF FACT
18	1. On or about June 3, 2010, Complainant Virginia Herold, in her official capacity as the
19	Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation
20 21	No. 3545 against Christina Marie Godinez (Respondent) before the Board of Pharmacy.
22	2. On or about October 3, 2008, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 86747 to Respondent. The Pharmacy Technician Registration
23	was in full force and effect at all times relevant to the charges brought herein and will expire on
24	March 31, 2012, unless renewed.
25	3. On or about June 7, 2010, Joan Randolph, an employee of the Department of Justice,
26	served by Certified and First Class Mail a copy of the Accusation No. 3545, Statement to
27	Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
28	11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

611 Walnut Lane Hollister, CA 95023.

A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).
 - 5. Government Code section 11506 states, in pertinent part:
 - (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
- 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3545.
 - 7. California Government Code section 11520 states, in pertinent part:
 - (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.
- 8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the evidence on file herein, finds that the allegations in Accusation No. 3545 are true.
- 9. The total cost for investigation and enforcement in connection with the Accusation are \$2,702.00 as of July 8, 2010.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent Christina Marie Godinez has subjected her Pharmacy Technician Registration No. TCH 86747 to discipline.
 - 2. A copy of the Accusation is attached.
 - 3. The agency has jurisdiction to adjudicate this case by default.
- 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation:

Exhibit A Accusation No. 3545

1	EDMUND G. Brown Jr.
2	Attorney General of California FRANK H. PACOE
3	Supervising Deputy Attorney General JUSTIN R. SURBER
4	Deputy Attorney General State Bar No. 226937
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004
6	Telephone: (415) 355-5437 Facsimile: (415) 703-5480
7	Attorneys for Complainant
	BEFORE THE
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9.	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 3545
11	CHRISTINA MARIE GODINEZ
12	611 Walnut Lane Hollister, CA 95023 ACCUSATION
13	Pharmacy Technician Registration No. TCH 86747
14	Respondent.
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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 October 3, 2008, the Board of Pharmacy issued Pharmacy Technician
22	Registration Number TCH 86747 to Christina Marie Godinez (Respondent). The Pharmacy
23	Technician Registration will expire on March 31, 2012, unless renewed.
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 unless otherwise indicated.
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4. Section 4300(a) of the Code states:

"Every license issued may be suspended or revoked."

5. 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:

. . .

"(f) The commission of any act involving moral turpitude, dishonesty, 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 misdemeanor or not.

. . .

"(1) 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.

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- 6. 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.
 - 7. 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."

8. 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.

DRUGS INVOLVED

9. Viagra (sildenafil) is a dangerous drug pursuant to section 4022 of the code.

FACTUAL BACKGROUND

- 10. On or about February 18, 2009, Respondent stole \$120 and approximately 25-30 tablets of Viagra from her employer Wal-Mart.
- 11. On or about June 11, 2009, in Santa Clara County Superior Court Case No. FF929213, Respondent was convicted of petty theft/embezzlement in violation of Penal Code sections 484/488. The circumstances are described in paragraph 10, above.
- 12. On or about June 29, 2009, Respondent was in a vehicle that was stopped by police. Respondent was not wearing her seatbelt. Respondent falsely identified herself as "Michelle Flores," date of birth 12/10/1984.
- 13. On or about November 10, 2009, In San Benito County Superior Court Case No. CR-09-01498, Respondent was convicted of false impersonation in violation of Penal Code § 529.

The circumstances are described in paragraph 12, above.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Conviction)

14. Respondent is subject to disciplinary action under sections 4301(I) and 490 of the code in that respondent was convicted of a crime that is substantially related to the duties, functions, or qualifications of pharmacy technician. The circumstances are described in paragraphs 10-11, above.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Conviction)

15. Respondent is subject to disciplinary action under sections 4301(l) and 490 of the code in that respondent was convicted of a crime that is substantially related to the duties, functions, or qualifications of pharmacy technician. The circumstances are described in paragraphs 12-13, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Moral Turpitude, Dishonesty, Fraud, and/or Deceit)

16. Respondent is subject to disciplinary action under section 4301 (f) of the code in that Respondent committed acts of moral turpitude, dishonesty, and/or deceit. The circumstances are described in paragraph 10, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Moral Turpitude, Dishonesty, Fraud, and/or Deceit)

17. Respondent is subject to disciplinary action under section 4301 (f) of the code in that Respondent committed acts of moral turpitude, dishonesty, and/or deceit. The circumstances are described in paragraph 12, 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 86747, issued to Christina Marie Godinez.

- 2. Ordering Christina Marie Godinez 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: 63/10

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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