

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3595

MARISSA PASCUA
1041 Via Miraleste
Chula Vista, CA 91910

Pharmacy Technician License No. TCH 45411
Respondent.

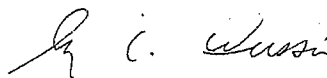
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 7, 2011.

It is so ORDERED on December 8, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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

11 In the Matter of the Accusation Against:

Case No. 3595

12 **MARISSA PASCUA**
13 **1041 Via Miraleste**
14 **Chula Vista, CA 91910**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Pharmacy Technician License No. TCH**
45411

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Edmund
23 G. Brown Jr., Attorney General of the State of California, by Rita M. Lane, Deputy Attorney
24 General.

25 2. Respondent Marissa Pascua is representing herself in this proceeding and has chosen
26 not to exercise her right to be represented by counsel.

27 3. On or about October 30, 2002, the Board of Pharmacy issued Pharmacy Technician
28 License No. TCH 45411 to Marissa Pascua (Respondent). The Pharmacy Technician License

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 3595
2 and will expire on January 31, 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3595 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on June 3, 2010. Respondent
7 timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3595 is
8 attached as Exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 3595. Respondent has also carefully read, and understands the effects of this
12 Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
15 her own expense; the right to confront and cross-examine the witnesses against her; the right to
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
17 compel the attendance of witnesses and the production of documents; the right to reconsideration
18 and court review of an adverse decision; and all other rights accorded by the California
19 Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 3595.

25 9. Respondent agrees that her Pharmacy Technician License is subject to discipline and
26 she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
27 Order below.

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CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
6 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
7 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
8 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
9 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
10 not be disqualified from further action by having considered this matter.

11 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
12 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
13 effect as the originals.

14 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing executed by an authorized representative of each of the parties.

20 13. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

DISCIPLINARY ORDER

23
24 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 45411 issued to
25 Respondent Marissa Pascua is revoked. However, the revocation is stayed and Respondent is
26 placed on probation for two (2) years on the following terms and conditions.

27 1. **Certification Prior to Resuming Work**

28 Respondent shall be automatically suspended from working as a pharmacy technician until

1 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
2 satisfactory proof of certification to the board. Respondent shall not resume working as a
3 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
4 year shall be considered a violation of probation. Respondent shall not resume working as a
5 pharmacy technician until notified by the board.

6 During suspension, respondent shall not enter any pharmacy area or any portion of any
7 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
8 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
9 devices or controlled substances are maintained. Respondent shall not do any act involving drug
10 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
11 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
12 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
13 substances. Respondent shall not resume work until notified by the board.

14 Subject to the above restrictions, respondent may continue to own or hold an interest in any
15 licensed premises by the board in which she holds an interest at the time this decision becomes
16 effective unless otherwise specified in this order.

17 Failure to comply with this suspension shall be considered a violation of probation.

18 **2. Obey All Laws**

19 Respondent shall obey all state and federal laws and regulations.

20 Respondent shall report any of the following occurrences to the board, in writing, within
21 seventy-two (72) hours of such occurrence:

- 22 an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 a conviction of any crime
- 28 discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's pharmacy technician license or which is related to the
2 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
3 or charging for any drug, device or controlled substance.

4 Failure to timely report any such occurrence shall be considered a violation of probation.

5 **3. Report to the Board**

6 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
7 designee. The report shall be made either in person or in writing, as directed. Among other
8 requirements, respondent shall state in each report under penalty of perjury whether there has
9 been compliance with all the terms and conditions of probation. Failure to submit timely reports
10 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
11 in submission of reports as directed may be added to the total period of probation. Moreover, if
12 the final probation report is not made as directed, probation shall be automatically extended until
13 such time as the final report is made and accepted by the board.

14 **4. Interview with the Board**

15 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
16 with the board or its designee, at such intervals and locations as are determined by the board or its
17 designee. Failure to appear for any scheduled interview without prior notification to board staff,
18 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
19 the period of probation, shall be considered a violation of probation.

20 **5. Cooperate with Board Staff**

21 Respondent shall cooperate with the board's inspection program and with the board's
22 monitoring and investigation of respondent's compliance with the terms and conditions of her
23 probation. Failure to cooperate shall be considered a violation of probation.

24 **6. Notice to Employers**

25 During the period of probation, respondent shall notify all present and prospective
26 employers of the decision in Case No. 3595 and the terms, conditions and restrictions imposed on
27 respondent by the decision, as follows:

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1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 respondent undertaking any new employment, respondent shall cause her direct supervisor,
3 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
4 tenure of employment) and owner to report to the board in writing acknowledging that the listed
5 individual(s) has/have read the decision in Case No. 3595 and the terms and conditions imposed
6 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)
7 submit timely acknowledgement(s) to the board.

8 If respondent works for or is employed by or through a pharmacy employment service,
9 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
10 of the terms and conditions of the decision in Case No. 3595 in advance of the respondent
11 commencing work at each pharmacy. A record of this notification must be provided to the board
12 upon request.

13 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
14 (15) days of respondent undertaking any new employment by or through a pharmacy employment
15 service, respondent shall cause her direct supervisor with the pharmacy employment service to
16 report to the board in writing acknowledging that she has read the decision in Case No. 3595 and
17 the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that
18 her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

19 Failure to timely notify present or prospective employer(s) or to cause that/those
20 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
21 probation.

22 "Employment" within the meaning of this provision shall include any full-time,
23 part-time, temporary or relief service or pharmacy management service as a pharmacy
24 technician or in any position for which a pharmacy technician license is a requirement
25 or criterion for employment, whether the respondent is considered an employee,
26 independent contractor or volunteer.

1 7. **Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, respondent shall pay to the
3 board its costs of investigation and prosecution in the amount of \$2,635.00. Respondent may
4 make payments. A payment schedule shall be coordinated with the board or its designee. Failure
5 to pay costs by the deadline(s) as directed shall be considered a violation of probation.

6 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
7 reimburse the board its costs of investigation and prosecution.

8 8. **Probation Monitoring Costs**

9 Respondent shall pay any costs associated with probation monitoring as determined by the
10 board each and every year of probation. Such costs shall be payable to the board on a schedule as
11 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
12 be considered a violation of probation.

13 9. **Status of License**

14 Respondent shall, at all times while on probation, maintain an active, current pharmacy
15 technician license with the board, including any period during which suspension or probation is
16 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

17 If respondent's pharmacy technician license expires or is cancelled by operation of law or
18 otherwise at any time during the period of probation, including any extensions thereof due to
19 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
20 terms and conditions of this probation not previously satisfied.

21 10. **License Surrender While on Probation/Suspension**

22 Following the effective date of this decision, should respondent cease work due to
23 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
24 respondent may tender her pharmacy technician license to the board for surrender. The board or
25 its designee shall have the discretion whether to grant the request for surrender or take any other
26 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
27 license, respondent will no longer be subject to the terms and conditions of probation. This

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1 surrender constitutes a record of discipline and shall become a part of the respondent's license
2 history with the board.

3 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
4 license to the board within ten (10) days of notification by the board that the surrender is
5 accepted. Respondent may not reapply for any license, permit, or registration from the board for
6 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
7 applicable to the license sought as of the date the application for that license is submitted to the
8 board.

9 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

11 Respondent shall notify the board in writing within ten (10) days of any change of
12 employment. Said notification shall include the reasons for leaving, the address of the new
13 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
14 shall further notify the board in writing within ten (10) days of a change in name, residence
15 address and mailing address, or phone number.

16 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
17 phone number(s) shall be considered a violation of probation.

18 **12. Tolling of Probation**

19 Except during periods of suspension, respondent shall, at all times while on probation, be
20 employed as a pharmacy technician in California for a minimum of 80 hours per calendar month.
21 Any month during which this minimum is not met shall toll the period of probation, i.e., the
22 period of probation shall be extended by one month for each month during which this minimum is
23 not met. During any such period of tolling of probation, respondent must nonetheless comply
24 with all terms and conditions of probation.

25 Should respondent, regardless of residency, for any reason (including vacation) cease
26 working as a pharmacy technician for a minimum of 80 hours per calendar month in California,
27 respondent must notify the board in writing within ten (10) days of cessation of work and must

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1 further notify the board in writing within ten (10) days of the resumption of the work. Any failure
2 to provide such notification(s) shall be considered a violation of probation.

3 It is a violation of probation for respondent's probation to remain tolled pursuant to the
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,
5 exceeding thirty-six (36) months.

6 "Cessation of work" means calendar month during which respondent is not
7 working for at least 80 hours as a pharmacy technician, as defined in Business and
8 Professions Code section 4115. "Resumption of work" means any calendar month
9 during which respondent is working as a pharmacy technician for at least 80 hours as
10 a pharmacy technician as defined by Business and Professions Code section 4115.

11 13. Violation of Probation

12 If a respondent has not complied with any term or condition of probation, the board shall
13 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
14 all terms and conditions have been satisfied or the board has taken other action as deemed
15 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
16 to impose the penalty that was stayed.

17 If respondent violates probation in any respect, the board, after giving respondent notice
18 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
19 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
20 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
21 a petition to revoke probation or an accusation is filed against respondent during probation, the
22 board shall have continuing jurisdiction, and the period of probation shall be automatically
23 extended until the petition to revoke probation or accusation is heard and decided.

24 14. Completion of Probation

25 Upon written notice by the board indicating successful completion of probation,
26 respondent's pharmacy technician license will be fully restored.

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1 15. **No Ownership of Licensed Premises**

2 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
3 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
4 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
5 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
6 days following the effective date of this decision and shall immediately thereafter provide written
7 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
8 documentation thereof shall be considered a violation of probation.

9 16. **Random Drug Screening**

10 Respondent, at her own expense, shall participate in random testing, including but not
11 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
12 screening program as directed by the board or its designee. Respondent may be required to
13 participate in testing for the entire probation period and the frequency of testing will be
14 determined by the board or its designee. At all times respondent shall fully cooperate with the
15 board or its designee, and shall, when directed, submit to such tests and samples for the detection
16 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
17 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
18 of probation. Upon request of the board or its designee, respondent shall provide documentation
19 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
20 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
21 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
22 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
23 shall be considered a violation of probation and shall result in the automatic suspension of work
24 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
25 board in writing.

26 During suspension, respondent shall not enter any pharmacy area or any portion of or any
27 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
28 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and

1 devices or controlled substances are maintained. Respondent shall not do any act involving drug
2 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
3 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
4 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
5 substances. Respondent shall not resume work until notified by the board.

6 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
7 Subject to the above restrictions, respondent may continue to own or hold an interest in any
8 licensed premises in which she holds an interest at the time this decision becomes effective unless
9 otherwise specified in this order.

10 Failure to comply with this suspension shall be considered a violation of probation.

11 **17. Work Site Monitor**

12 Within ten (10) days of the effective date of this decision, respondent shall identify a work
13 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
14 during working hours. Respondent shall be responsible for ensuring that the work site monitor
15 reports in writing to the board quarterly. Should the designated work site monitor determine at
16 any time during the probationary period that respondent has not maintained sobriety, she shall
17 notify the board immediately, either orally or in writing as directed. Should respondent change
18 employment, a new work site monitor must be designated, for prior approval by the board, within
19 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
20 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
21 considered a violation of probation.

22 **18. Notification of Departure**

23 Prior to leaving the probationary geographic area designated by the board or its designee for
24 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
25 writing of the dates of departure and return. Failure to comply with this provision shall be
26 considered a violation of probation.

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1 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
2 to be bound by the Decision and Order of the Board of Pharmacy.

3 DATED: 7/18/10 MARISSA PASCUA
4 MARISSA PASCUA
5 Respondent

6 ENDORSEMENT

7 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
8 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

9 Dated: 9-18-10

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

Rita M. Lane
RITA M. LANE
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

ACCUSATION NO. 3595

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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 RITA M. LANE
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11 In the Matter of the Accusation Against:
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Chula Vista, CA 91910
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15 **Pharmacy Technician License No. TCH**
45411
16
17 Respondent.

Case No. 3595

ACCUSATION

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about October 30, 2002, the Board of Pharmacy issued Pharmacy Technician
23 License No. TCH 45411 to Marissa Pascua (Respondent). The Pharmacy Technician License
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 January 31, 2012, unless renewed.

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27 ///
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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 of the Code states in pertinent part:

(a) Every license issued may be suspended or revoked.

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

6. 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.

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

(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.

1 7. Section 4022 of the Code states

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe
3 for self-use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits
5 dispensing without prescription," "Rx only," or words of similar import.

6 (b) Any device that bears the statement: "Caution: federal law restricts this
7 device to sale by or on the order of a _____," "Rx only," or words of similar
8 import, the blank to be filled in with the designation of the practitioner licensed to
9 use or order use of the device.

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

12 8. Section 4060 of the Code states:

13 No person shall possess any controlled substance, except that furnished to a
14 person upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
17 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
18 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
19 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
20 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
21 section shall not apply to the possession of any controlled substance by a
22 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
23 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
24 practitioner, or physician assistant, when in stock in containers correctly labeled
25 with the name and address of the supplier or producer.

26 Nothing in this section authorizes a certified nurse-midwife, a nurse
27 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
28 stock of dangerous drugs and devices.

9. Health & Safety Code section 11170 states that "[n]o person shall prescribe,
administer, or furnish a controlled substance for himself."

10. Health & Safety Code section 11173 states in pertinent part that no person shall
obtain a controlled substance by fraud, deceit, subterfuge or concealment of a material fact.

COSTS

11. 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

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 DRUG

4 12. Phentermine is designated by Health and Safety Code section 11057(f)(2) as a
5 Schedule IV controlled substance, and by Business and Professions Code section 4022 as a
6 dangerous drug, and is used as a stimulant.

7 FIRST CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct – Dishonest Acts)

9 13. Respondent is subject to disciplinary action under Code section 4301(f) in that she
10 engaged in acts involving moral turpitude, dishonesty, fraud and deceit when she stole controlled
11 substances from her employer. The circumstances are as follows:

12 14. On or about April 18, 2007, Respondent was working as a pharmacy technician at
13 Rite Aid Pharmacy in Bonita, California. On April 18, 2007, Rite-Aid Pharmacy staff discovered
14 there were only 2 tablets of Phentermine 30 mg in a container that should have contained ninety
15 (90) capsules. An audit was performed and it was discovered that there was a total loss of 184
16 capsules/tablets of various strengths of Phentermine. On May 3, 2007, pharmacy staff was
17 interviewed regarding the loss and Respondent admitted to taking the missing Phentermine.
18 Respondent admitted that she took the Phentermine from the pharmacy and that she ingested 1 to
19 3 tablets of Phentermine a day while working at the pharmacy. Respondent admitted that she did
20 not have a prescription for Phentermine.

21 SECOND CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct - Self Administration of a Controlled Substance)

23 15. Respondent is subject to disciplinary action under Code section 4301(h) in
24 conjunction with Health and Safety Code section 11170 in that she administered to herself a
25 controlled substance, as more particularly alleged in paragraph 14 above, and incorporated herein
26 by reference.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Illegal Furnishing of a Controlled Substance to Oneself)

3 16. Respondent is subject to disciplinary action under Code section 4301(j) in
4 conjunction with Health & Safety Code section 11170 for illegally furnishing a controlled
5 substance to herself, as more particularly alleged in paragraph 14 above, and incorporated herein
6 by reference.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct - Possession of a Controlled Substance Without a Prescription)

9 17. Respondent is subject to disciplinary action under Code section 4301(j) in
10 conjunction with Code section 4060 in that Respondent was in possession of a controlled
11 substance without a legitimate prescription, as more particularly alleged in paragraph 14 above,
12 and incorporated herein by reference.

13 FIFTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct - Dispensing While Under the Influence)

15 18. Respondent is subject to disciplinary action under Code section 4301(h) in that she
16 used a dangerous drug to the extent or in a manner as to be dangerous or injurious to others and to
17 the extent that the use impairs the ability of the person to conduct with safety to the public the
18 practice authorized by the license when she worked as a pharmacy technician and dispensed
19 medication while she was under the influence of Phentermine, as more particularly alleged in
20 paragraph 14 above, and incorporated herein by reference.

21 PRAYER

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

24 1. Revoking or suspending Pharmacy Technician License No. TCH 45411, issued to
25 Marissa Pascua;

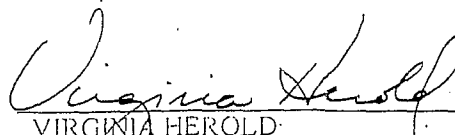
26 2. Ordering Marissa Pascua to pay the Board of Pharmacy the reasonable costs of the
27 investigation and enforcement of this case, pursuant to Business and Professions Code section
28 125.3; and

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

DATED:

5/28/10



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

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