

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

In the Matter of the Accusation Against:

Case No. 3612

**MARLENE RAMONA RAMIREZ**  
8651 Camelia Drive  
Riverside, CA 92504

Pharmacy Technician Registration No. TCH  
52404

Respondent.

**DECISION AND ORDER**

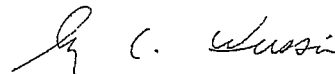
The attached Stipulated Settlement and Disciplinary and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on September 15, 2011.

It is so ORDERED August 16, 2011.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3612

12 **MARLENE RAMONA RAMIREZ**  
13 **8651 Camelia Drive**  
14 **Riverside, CA 92504**

OAH No. 2010100122

15 **Pharmacy Technician Registration**  
16 **No. TCH 52404**

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17 Respondent.

18 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
19 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,  
20 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will  
21 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

22 **PARTIES**

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
24 She brought this action solely in her official capacity and is represented in this matter by Kamala  
25 D. Harris, Attorney General of the State of California, by Karen L. Gordon, Deputy Attorney  
26 General.

1 2. Marlene Ramona Ramirez (Respondent) is representing herself in this proceeding and  
2 has chosen not to exercise her right to be represented by counsel.

3 3. On or about January 7, 2004, the Board of Pharmacy issued Pharmacy Technician  
4 Registration No. TCH 52404 to Marlene Ramona Ramirez (Respondent). The Pharmacy  
5 Technician Registration was in full force and effect at all times relevant to the charges brought in  
6 Accusation No. 3612 and will expire on January 31, 2012, unless renewed.

### 7 JURISDICTION

8 4. Accusation No. 3612 was filed before the Board of Pharmacy (Board), Department of  
9 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
10 statutorily required documents were properly served on Respondent on May 17, 2010.  
11 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation  
12 No. 3612 is attached as Exhibit A and incorporated herein by reference.

### 13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, and understands the charges and allegations in  
15 Accusation No. 3612. Respondent has also carefully read, and understands the effects of this  
16 Stipulated Settlement and Disciplinary Order.

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

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

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 3612.

4 9. Respondent agrees that her Pharmacy Technician Registration is subject to discipline  
5 and she agrees to be bound by the Board of Pharmacy (Board)'s probationary terms as set forth in  
6 the Disciplinary Order below.

7 CONTINGENCY

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

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

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

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

1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 52404 issued  
3 to Respondent Marlene Ramona Ramirez is revoked. However, the revocation is stayed and  
4 Respondent is placed on probation for three (3) years on the following terms and conditions.

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

6 Respondent shall be automatically suspended from working as a pharmacy technician until  
7 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides  
8 satisfactory proof of certification to the board. Respondent shall not resume working as a  
9 pharmacy technician until notified by the board. Failure to achieve certification within one (1)  
10 year shall be considered a violation of probation. Respondent shall not resume working as a  
11 pharmacy technician until notified by the board.

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

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

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

24 2. **Obey All Laws**

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

26 Respondent shall report any of the following occurrences to the board, in writing, within  
27 seventy-two (72) hours of such occurrence:  
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- 1        an arrest or issuance of a criminal complaint for violation of any provision of the
- 2           Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 3           substances laws
- 4        a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 5           criminal complaint, information or indictment
- 6        a conviction of any crime
- 7        discipline, citation, or other administrative action filed by any state or federal agency
- 8           which involves Respondent's Pharmacy Technician Registration or which is related
- 9           to the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
- 10          billing, or charging for any drug, device or controlled substance.

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

12       **3. Report to the Board**

13       Respondent shall report to the board quarterly, on a schedule as directed by the board or its

14       designee. The report shall be made either in person or in writing, as directed. Among other

15       requirements, Respondent shall state in each report under penalty of perjury whether there has

16       been compliance with all the terms and conditions of probation. Failure to submit timely reports

17       in a form as directed shall be considered a violation of probation. Any period(s) of delinquency

18       in submission of reports as directed may be added to the total period of probation. Moreover, if

19       the final probation report is not made as directed, probation shall be automatically extended until

20       such time as the final report is made and accepted by the board.

21       **4. Interview with the Board**

22       Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews

23       with the board or its designee, at such intervals and locations as are determined by the board or its

24       designee. Failure to appear for any scheduled interview without prior notification to board staff,

25       or failure to appear at two (2) or more scheduled interviews with the board or its designee during

26       the period of probation, shall be considered a violation of probation.

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1           **5. Cooperate with Board Staff**

2           Respondent shall cooperate with the board's inspection program and with the board's  
3 monitoring and investigation of Respondent's compliance with the terms and conditions of her  
4 probation. Failure to cooperate shall be considered a violation of probation.

5           **6. Notice to Employers**

6           During the period of probation, Respondent shall notify all present and prospective  
7 employers of the decision in case number 3612 and the terms, conditions and restrictions imposed  
8 on respondent by the decision, as follows:

9           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
10 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,  
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's  
12 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
13 individual(s) has/have read the decision in case number 3612 and the terms and conditions  
14 imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or  
15 supervisor(s) submit timely acknowledgement(s) to the board.

16           If Respondent works for or is employed by or through a pharmacy employment service,  
17 Respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy  
18 of the terms and conditions of the decision in case number 3612 in advance of the Respondent  
19 commencing work at each pharmacy. A record of this notification must be provided to the board  
20 upon request.

21           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
22 (15) days of Respondent undertaking any new employment by or through a pharmacy  
23 employment service, Respondent shall cause her direct supervisor with the pharmacy  
24 employment service to report to the board in writing acknowledging that she has read the decision  
25 in case number 3612 and the terms and conditions imposed thereby. It shall be Respondent's  
26 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely  
27 acknowledgment(s) to the board.

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

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

9 **7. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, Respondent shall pay to the  
11 board its costs of investigation and prosecution in the amount \$250.00. A quarterly payment  
12 schedule may be approved by the Board. There shall be no deviation from any payment schedule  
13 absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s)  
14 as directed shall be considered a violation of probation.

15 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility  
16 to reimburse the board its costs of investigation and prosecution.

17 **8. Probation Monitoring Costs**

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

22 **9. Status of License**

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

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

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

6 Following the effective date of this decision, should Respondent cease work due to  
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
8 Respondent may tender her pharmacy technician license to the board for surrender. The board or  
9 its designee shall have the discretion whether to grant the request for surrender or take any other  
10 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
11 license, Respondent will no longer be subject to the terms and conditions of probation. This  
12 surrender constitutes a record of discipline and shall become a part of the Respondent's license  
13 history with the board.

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

20 **11. Notification of a Change in Name, Residence Address, Mailing Address or**  
21 **Employment**

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

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

1           **12. Tolling of Probation**

2           Except during periods of suspension, Respondent shall, at all times while on probation, be  
3 employed as a pharmacy technician in California for a minimum of twenty (20) hours per  
4 calendar month. Any month during which this minimum is not met shall toll the period of  
5 probation, i.e., the period of probation shall be extended by one month for each month during  
6 which this minimum is not met. During any such period of tolling of probation, Respondent must  
7 nonetheless comply with all terms and conditions of probation.

8           Should Respondent, regardless of residency, for any reason (including vacation) cease  
9 working as a pharmacy technician for a minimum of twenty (20) hours per calendar month in  
10 California, Respondent must notify the board in writing within ten (10) days of cessation of work  
11 and must further notify the board in writing within ten (10) days of the resumption of the work.  
12 Any failure to provide such notification(s) shall be considered a violation of probation.

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

16           "Cessation of work" means calendar month during which Respondent is not  
17 working for at least twenty (20) hours as a pharmacy technician, as defined in  
18 Business and Professions Code section 4115. "Resumption of work" means any  
19 calendar month during which Respondent is working as a pharmacy technician for at  
20 least twenty (20) hours as a pharmacy technician as defined by Business and  
21 Professions Code section 4115.

22           **13. Violation of Probation**

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

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

8 **14. Completion of Probation**

9 Upon written notice by the board indicating successful completion of probation,  
10 Respondent's pharmacy technician license will be fully restored.

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

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

19 **16. Random Drug Screening**

20 Respondent, at her own expense, shall participate in random testing, including but not  
21 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
22 screening program as directed by the board or its designee. Respondent may be required to  
23 participate in testing for the entire probation period and the frequency of testing will be  
24 determined by the board or its designee. At all times, Respondent shall fully cooperate with the  
25 board or its designee, and shall, when directed, submit to such tests and samples for the detection  
26 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its  
27 designee may direct. Failure to timely submit to testing as directed shall be considered a violation  
28 of probation. Upon request of the board or its designee, Respondent shall provide documentation

1 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is  
2 a necessary part of the treatment of the Respondent. Failure to timely provide such  
3 documentation shall be considered a violation of probation. Any confirmed positive test for  
4 alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented  
5 medical treatment shall be considered a violation of probation and shall result in the automatic  
6 suspension of work by respondent. Respondent may not resume work as a pharmacy technician  
7 until notified by the board in writing.

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

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

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

21 **17. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

22 Upon one positive drug screen, Respondent shall begin regular attendance at a recognized  
23 and established substance abuse recovery support group in California, (e.g., Alcoholics  
24 Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its designee.  
25 Respondent must attend at least one group meeting per week unless otherwise directed by the  
26 board or its designee. Respondent shall continue regular attendance and submit signed and dated  
27 documentation confirming attendance with each quarterly report for the duration of probation.  
28 Failure to attend or submit documentation thereof shall be considered a violation of probation.

1           **18. Abstain from Drugs and Alcohol Use**

2           Respondent shall completely abstain from the possession or use of alcohol, controlled  
3 substances, dangerous drugs and their associated paraphernalia except when the drugs are  
4 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon  
5 request of the board or its designee, Respondent shall provide documentation from the licensed  
6 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the  
7 treatment of the respondent. Failure to timely provide such documentation shall be considered a  
8 violation of probation. Respondent shall ensure that she is not in the same physical location as  
9 individuals who are using illicit substances even if Respondent is not personally ingesting the  
10 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
11 not supported by the documentation timely provided, and/or any physical proximity to persons  
12 using illicit substances, shall be considered a violation of probation.

13           **19. Community Services Program**

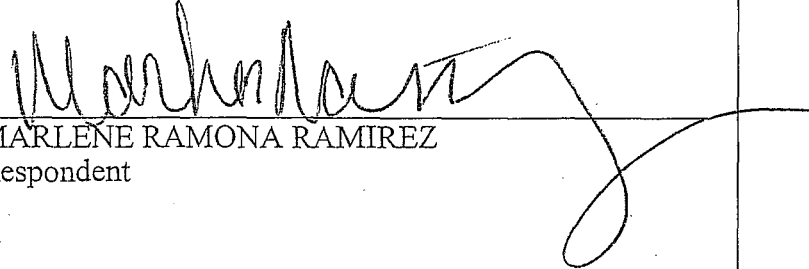
14           Within sixty (60) days of the effective date of this decision, Respondent shall submit to the  
15 board or its designee, for prior approval, a community service program in which Respondent shall  
16 provide free health-care related services on a regular basis to a community or charitable facility or  
17 agency for at least 100 hours for the entire term of probation. Within thirty (30) days of board  
18 approval thereof, Respondent shall submit documentation to the board demonstrating  
19 commencement of the community service program. A record of this notification must be  
20 provided to the board upon request. Respondent shall report on progress with the community  
21 service program in the quarterly reports. Failure to timely submit, commence, or comply with the  
22 program shall be considered a violation of probation.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.


DATED: 5/16/11   
MARLENE RAMONA RAMIREZ  
Respondent

ENDORSEMENT

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

Dated: April 5, 2011

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Supervising Deputy Attorney General

  
KAREN L. GORDON  
Deputy Attorney General  
*Attorneys for Complainant*

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Exhibit A

Accusation No. 3612

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 ALFREDO TERRAZAS  
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3 LINDA K. SCHNEIDER  
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*Attorneys for Complainant*

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Case No. 3612

12 **MARLENE RAMONA RAMIREZ**  
13 **8651 Camelia Drive**  
14 **Riverside, CA 96049**

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

15 **Pharmacy Technician Registration**  
**No. TCH 52404**

16 Respondent.

17  
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 January 7, 2004, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 52404 to Marlene Ramona Ramirez (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on January 31, 2012, unless renewed.

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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 unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/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.

5. Section 4300 of the Code states:

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

STATUTORY PROVISIONS

6. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. 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.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

"(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

1           “(b) Notwithstanding any other provision of this code, no person shall be denied a license  
2 solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
3 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
4 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
5 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
6 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
7 Section 482.

8           “(c) A board may deny a license regulated by this code on the ground that the applicant  
9 knowingly made a false statement of fact required to be revealed in the application for the  
10 license.”

11           7. Section 482 of the Code states:

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

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

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

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

18           8. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
19 revoke a license on the ground that the licensee has been convicted of a crime substantially  
20 related to the qualifications, functions, or duties of the business or profession for which the  
21 license was issued.

22           9. Section 493 of the Code states:

23           “Notwithstanding any other provision of law, in a proceeding conducted by a board within  
24 the department pursuant to law to deny an application for a license or to suspend or revoke a  
25 license or otherwise take disciplinary action against a person who holds a license, upon the  
26 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
27 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
28 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact.

1 and the board may inquire into the circumstances surrounding the commission of the crime in  
2 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
3 qualifications, functions, and duties of the licensee in question.

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

6 10. Section 4301 of the Code states:

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

10 ". . . .

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

14 ". . . .

15 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
16 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
17 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
18 substances or of a violation of the statutes of this state regulating controlled substances or  
19 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
20 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
21 The board may inquire into the circumstances surrounding the commission of the crime, in order  
22 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
23 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
24 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
25 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
26 of this provision. The board may take action when the time for appeal has elapsed, or the  
27 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
28 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
3 indictment.

4  
5 "(p) Actions or conduct that would have warranted denial of a license."

#### 6 REGULATORY PROVISIONS

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

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

14 12. California Code of Regulations, title 16, section 1769, states:

15  
16 "(b) When considering the suspension or revocation of a facility or a personal license on the  
17 ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating  
18 the rehabilitation of such person and his present eligibility for a license will consider the  
19 following criteria:

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

21 "(2) Total criminal record.

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

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

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

#### 26 COST RECOVERY

27 Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
28 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 FIRST CAUSE FOR DISCIPLINE

4 (December 8, 2008, Conviction for Malicious Disturbance on July 20, 2008)

5 13. Respondent is subject to disciplinary action under sections 490 and 4301,  
6 subdivision (1) of the Codes in that she was convicted of a crime substantially related to the  
7 qualifications, duties, and functions as a pharmacy technician. The circumstances are as follows:

8 a. On September 11, 2008, in Riverside County Superior Court, case number  
9 RIM519395, Respondent was charged with Count 1, a misdemeanor violation of Vehicle Code  
10 section 664-23152, subdivision (a), attempted driving under the influence of a drug or alcohol,  
11 and Count 2, a misdemeanor violation of Vehicle Code section 664-23152, subdivision (b),  
12 attempted DUI, Alcohol/0.08 percent. On December 8, 2008, the complaint was amended to add  
13 Count 3, a misdemeanor violation of Penal Code section 415, subdivision (2), malicious  
14 disturbance. On December 8, 2008, Respondent pled guilty to Count 3 and was granted three  
15 years of summary probation, sentenced to serve 6 days in the county jail with credit of 1 day for  
16 time served, and to pay a fine of \$1763.40. Counts 1 and 2 were dismissed.

17 b. The facts that led to the conviction are that on July 20, 2008, an investigator working  
18 in plain clothes capacity for the California Department of Alcoholic Beverage Control (ABC) was  
19 patrolling a parking lot/structure located at 3737 Main Street, Riverside, California. This parking  
20 structure is known for minor drinking and drug use and is used by patrons of an ABC licensed  
21 premises known as Trilussa. The investigator observed two females walking in the parking  
22 structure talking and laughing loudly. They were standing in front of cars that were attempting to  
23 leave. They also argued with a male in the structure. The investigator observed that they were  
24 swaying and staggering as they walked. The investigator also observed that one female, later  
25 identified as Respondent, had blood shot watery eyes and a flushed face. Respondent was  
26 observed getting into the driver's side of a vehicle and starting it. A second investigator then  
27 approached the vehicle and had Respondent turn off the engine and exit the vehicle. The  
28 investigator requested that Respondent perform field sobriety tests (FST's). Respondent failed to

1 perform the tests as demonstrated. Based on failing the FST's, the objective signs and symptoms  
2 of intoxication, Respondent was arrested by the Riverside Sheriff's Department for violation of  
3 Vehicle Code section 23152, subdivision (a), DUI. Respondent was transported and booked into  
4 custody at Robert Presley Detention Center (Riverside County Jail).

#### 5 SECOND CAUSE FOR DISCIPLINE

6 (September 18, 2008. Conviction for Assault With Deadly Weapon on December 29, 2007)

7 14. Respondent is subject to disciplinary action under Code sections 490 and 4301,  
8 subdivision (1) in that she was convicted of a crime that is substantially related to the  
9 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

10 a. On December 31, 2007, in San Bernardino County Superior Court case number  
11 FCH7000638, Respondent was charged with Count 1, a felony violation of Penal Code section  
12 245, subdivision (a)(1), assault with deadly weapon with a special allegation of personally  
13 inflicting great bodily injury. On September 18, 2008, the complaint was amended to add  
14 Count 2, a felony violation of Penal Code section 245, subdivision (a)(1), assault with deadly  
15 weapon: great bodily injury likely. On September 18, 2008, Respondent pled nolo contendere to  
16 Count 2 and Count 1 was dismissed. On October 21, 2008, Respondent was granted three years  
17 of supervised probation, sentenced to serve 60 days in county jail with credit for 6 days served,  
18 required to participate in a counseling program, and pay restitution of \$6,899.51.

19 b. The facts that led to the conviction are that on December 29, 2007, an officer with the  
20 Chino Police Department responded to a bar on a report of a fight between two females. Upon  
21 arrival, the officer identified a female subject, the victim, whose face was bleeding. The victim  
22 stated she was dancing when someone hit her with an unknown object, but did not know who hit  
23 her. One witness reported that she saw Respondent hit the victim in a face with a bottle.  
24 Respondent stated that a female had pushed her on the dance floor and she defended herself by  
25 fighting back and taking the female to the ground. The victim was taken to a hospital. The  
26 officer spoke with the doctor who treated the victim, who stated the victim had a cut above her  
27 left eyebrow that required three stitches, a cut on the upper left side of her nose that required three  
28 stitches, and a cut to her middle left finger which required four stitches. The doctor believed the

1 middle finger cut was consistent with that of a glass-type cut or that her finger could have  
2 possibly been cut by glass.

3 THIRD CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct – Moral Turpitude)

5 15. Respondent is subject to disciplinary action for unprofessional conduct under Code  
6 section 4301, subdivision (f), in that Respondent's assault with a deadly weapon constitutes moral  
7 turpitude, as is detailed in paragraph 14, above.

8 FOURTH CAUSE FOR DISCIPLINE

9 (Conduct That Would Have Warranted Denial of a License)

10 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (p)  
11 in that on December 29, 2007, and July 20, 2008, Respondent violated Penal Code sections 415,  
12 subdivision (2), malicious disturbance, and 245, subdivision (a)(1), assault with a deadly weapon,  
13 great bodily injury likely. Such egregious conduct would have warranted the denial of a  
14 pharmacy technician registration under Code section 480, subdivisions (a)(1) and (a)(2).

15 PRAYER

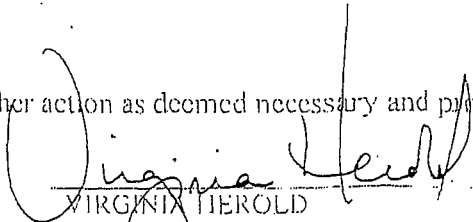
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Pharmacy issue a decision:

18 1. Revoking or suspending Pharmacy Technician Registration Number TCH 52404,  
19 issued to Marlene Ramona Ramirez;

20 2. Ordering Marlene Ramona Ramirez to pay the Board of Pharmacy the reasonable  
21 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
22 Code section 125.3;

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

24 DATED: 5/6/10

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

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