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

In the Matter of the Accusation Against:

MARTHA PEREZ SOLAREZ
429 W. 6th Street
Oxnard, CA 93030
Pharmacy Technician License No. TCH
77320

Respondent.

Case No. 4085

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 9, 2012, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4085 against Martha Perez Solarez (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about May 19, 2008, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 77320 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4085 and will expire on January 31, 2014, unless renewed.

1 3. On or about October 17, 2012, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4085, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is:

7 429 W. 6th Street
8 Oxnard, CA 93030.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4085.

20 7. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions
23 or upon other evidence and affidavits may be used as evidence without any notice to
24 respondent.

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 4085, finds that
the charges and allegations in Accusation No. 4085, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 e. Respondent is subject to disciplinary action under Business and Professions Code
2 section 4300 and 4301, subdivision (f), in that Respondent committed acts involving moral
3 turpitude, dishonesty, fraud, deceit, or corruption.

4 ORDER

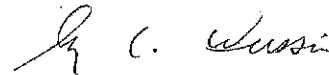
5 IT IS SO ORDERED that Pharmacy Technician License No. TCH 77320, heretofore issued
6 to Respondent Martha Perez Solarez, is revoked.

7 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
8 written motion requesting that the Decision be vacated and stating the grounds relied on within
9 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
10 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

11 This Decision shall become effective on February 15, 2013.

12 It is so ORDERED ON January 16, 2013.

13 BOARD OF PHARMACY
14 DEPARTMENT OF CONSUMER AFFAIRS
15 STATE OF CALIFORNIA

16 

17 By _____
18 STANLEY C. WEISSER
19 Board President

20 51208633.DOC
21 DOJ Matter ID:LA2011600968

22 Attachment:
23 Exhibit A: Accusation
24
25
26
27
28

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 M. TRAVIS PEERY
Supervising Deputy Attorney General
4 State Bar No. 261887
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0962
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 4085

12 **MARTHA PEREZ SOLAREZ**
13 429 W. 6th Street
Oxnard, CA 93030

ACCUSATION

14 Pharmacy Technician License No. TCH 77320

15 Respondent.

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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 (Board).

22 2. On or about May 19, 2008, the Board of Pharmacy issued Pharmacy Technician
23 License Number TCH 77320 to Martha Perez Solarez (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on January 31, 2014, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order
4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
5 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
6 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision. The board may take action when the time for appeal has elapsed, or the
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
12 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment.

14

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

19 8. Section 4324, subdivision (a), states:

20 "Every person who signs the name of another, or of a fictitious person, or falsely makes,
21 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
22 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the
23 state prison, or by imprisonment in the county jail for not more than one year."

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1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1770, states:

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

9 **COST RECOVERY**

10 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
11 law judge to direct a licentiate found to have committed a violation or violations of the licensing
12 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
13 case.

14 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

15 11. Suboxone, the brand name of buprenorphine and naloxone, is classified as a
16 Schedule IV controlled substance pursuant to Health and Safety Code section 11058(d), and is a
17 dangerous drug pursuant to section 4022.

18 12. Health and Safety Code section 11875 states, in pertinent part:

19 "The following controlled substances are authorized for use in replacement narcotic therapy
20 by licensed narcotic treatment programs:

21

22 "(c) Buprenorphine products or combination products approved by the federal Food and
23 Drug Administration for maintenance or detoxification of opioid dependence. (d) Any other
24 federally approved controlled substances used for the purpose of narcotic replacement treatment."

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Convictions of Substantially Related Crimes)

27 13. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
28 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the

1 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
2 related to the qualifications, functions or duties of a registered pharmacy technician which to a
3 substantial degree evidence her present or potential unfitness to perform the functions authorized
4 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

5 a. On or about September 13, 2011, after pleading nolo contendere, Respondent was
6 convicted of one misdemeanor count of violating Health and Safety Code section 11171(a)
7 [obtaining controlled substance by fraud, to wit, Suboxone] in the criminal proceeding entitled
8 *The People of the State of California v. Martha Solarez* (Super. Ct. Ventura County, 2010,
9 No. 2010021798MA). The Court sentenced Respondent to two (2) days jail and placed her
10 on 36 months probation.

11 b. The circumstances underlying the conviction are that on or about June 16, 2010,
12 Respondent, while representing that she was telephoning from a doctor's office and using her
13 maiden name, placed an order with a Rite Aid pharmacist for Suboxone, a controlled substance
14 and dangerous drug, without a valid prescription.

15 c. On or about January 29, 2003, after pleading guilty, Respondent was convicted of one
16 misdemeanor count of violating Vehicle code section 23152(b) [drive with an equal to or greater
17 than 0.08% blood alcohol content (BAC)] in the criminal proceeding entitled *The People of the*
18 *State of California v. Martha Solarez* (Super. Ct. Ventura County, 2003, No. 2003000129MA).
19 The Court sentenced Respondent to five (5) days jail, placed her on 36 months probation, and
20 ordered her to complete a First Conviction Drinking Driver Program.

21 d. The circumstances underlying the conviction are that on or about December 30, 2002,
22 Respondent while under the tested influence of 0.09/0.08% BAC drove a vehicle.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(False Prescription)**

25 14. Respondent is subject to disciplinary action under sections 4300, 4301,
26 subdivision (o), and 4324, on the grounds of unprofessional conduct, in that on or about June 16,
27 2010, Respondent attempted to pass, as genuine, a prescription for the drug Suboxone with Rite
28 Aid Pharmacy. Complainant refers to and by this reference incorporates the allegations set forth

1 above in paragraph 13, subparagraphs a and b, inclusive, as though set forth fully.

2 **THIRDH CAUSE FOR DISCIPLINE**

3 **(Violating Drug Státutes)**

4 15. Respondent is subject to disciplinary action under sections 4300, 4301,
5 subdivision (j), on the grounds of unprofessional conduct, in that on or about June 16, 2010 or
6 September 13, 2010, Respondent violated Health and Safety Code section 11171, subdivision (a).
7 Complainant refers to and by this reference incorporates the allegations set forth above in
8 paragraph 13, subparagraphs a and b, inclusive, as though set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Misstatement on Application for Licensure)**

11 16. Respondent is subject to disciplinary action under sections 4300 and 4301,
12 subdivision (g), on the grounds of unprofessional conduct, in that on or about June 18, 2007,
13 Respondent, under penalty of perjury to the truth and accuracy of all statements, answers and
14 representations made in the application, knowingly made a false statement of fact required to be
15 revealed in her application for licensure and procured her license by fraud or misrepresentation.
16 Respondent answered "No" to question No. 6, when in fact, she sustained a criminal conviction
17 on or about January 29, 2003. Question 6, states:

18 Have you ever been convicted of or pled no contest to a violation of any law of a
19 foreign country, the United States or any state laws or local ordinances? You must
20 include all misdemeanor and felony convictions, regardless of the age of the
21 conviction, including those which have been set aside under Penal Code
22 section 1203.4. Traffic violations of \$500 or less need not be reported. If "yes,"
23 attach an explanation including the type of violation, the date, circumstances,
24 location and the complete penalty received. In addition to this written explanation,
25 please provide the Board of Pharmacy with certified copies of all pertinent court
26 documents or arrest reports relating to this conviction.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Acts Involving Moral Turpitude, Fraud, Deceit or Corruption)

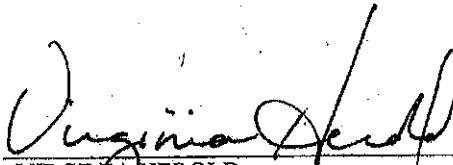
3 17. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
5 involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by
6 this reference incorporates the allegations set forth above in paragraph 13, subparagraphs a and b,
7 and paragraphs 14 - 16, inclusive, as though set forth fully.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
10 and that following the hearing, the Board issue a decision:

- 11 1. Revoking or suspending Pharmacy Technician License Number TCH 77320, issued
12 to Martha Perez Solarez;
- 13 2. Ordering Martha Perez Solarez to pay the Board the reasonable costs of the
14 investigation and enforcement of this case, pursuant to section 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.

16
17
18 DATED: 10/9/12

19 
20 VIRGINIA HEROLD
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 Complainant

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