

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

In the Matter of the Accusation Against:

SABRINA MOROLES
45840 Michell Lane
Indio, CA 92201

**Pharmacy Technician Registration No. TCH
27620**

Respondent.

Case No. 4281

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 29, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4281 against Sabrina Moroles (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about November 3, 1998, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 27620 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4281 and will expire on May 31, 2012, unless renewed.
3. On or about March 29, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4281, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code

1 section 4100, is required to be reported and maintained with the Board. Respondent's address of
2 record was and is: 45840 Michell Lane, Indio, CA 92201.

3 4. Service of the Accusation was effective as a matter of law under the provisions of
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
5 124.

6 5. As of April 26, 2012, neither the Accusation packet served via Certified Mail nor
7 First Class Mail has been returned by the U.S. Postal Service.

8 6. Government Code section 11506 states, in pertinent part:

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

14 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4281.

16 8. California Government Code section 11520 states, in pertinent part:

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

21 9. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 4281, finds that
26 the charges and allegations in Accusation No. 4281, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 10. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$1,752.50 as of April 25, 2012.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Sabrina Moroles has subjected
3 her Pharmacy Technician Registration No. TCH 27620 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Evidence Packet in this case:

8 a. violation of Business and Professions Code sections 490 and 4301(l) in that
9 Respondent was convicted of violation Penal Code section 32 (accessory to attempted murder and
10 assault with a firearm) on January 10, 2012, which is a crime substantially related to the
11 qualifications, functions and duties of a pharmacy technician;

12 b. violation of Business and Professions Code sections 4301(f) by committing an act
13 involving moral turpitude when on October 15, 2010, Respondent knowingly and voluntarily
14 participated in attempted murder;

15 c. violation of Business and Professions Code sections 4301(p) in that Respondent
16 engaged in conduct that would have warranted a denial of a license pursuant to Code section 480
17 in that Respondent was convicted of violation of Penal Code section 32 (accessory to attempted
18 murder and assault with a firearm) on January 10, 2012.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 27620, heretofore issued to Respondent Sabrina Moroles, is revoked.

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

This Decision shall become effective on September 26, 2012.

It is so ORDERED on August 27, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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DOJ Matter ID:SD2012703061

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation No. 4281

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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

14 **SABRINA MOROLES**
45840 Michell Lane
15 **Indio, CA 92201**

Case No. 4281

16 **Pharmacy Technician Registration No. TCH 27620**
Respondent.

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about November 3, 1998, the Board of Pharmacy issued Pharmacy
22 Technician Registration Number TCH 27620 to Sabrina Moroles (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on May 31, 2012, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code (Code) unless otherwise indicated.

1 related to the qualifications, functions, or duties of the business or profession for which the
2 license was issued.

3 8. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted by
5 a board within the department pursuant to law to deny an application for a license
6 or to suspend or revoke a license or otherwise take disciplinary action against a
7 person who holds a license, upon the ground that the applicant or the licensee has
8 been convicted of a crime substantially related to the qualifications, functions, and
9 duties of the licensee in question, the record of conviction of the crime shall be
10 conclusive evidence of the fact that the conviction occurred, but only of that fact,
11 and the board may inquire into the circumstances surrounding the commission of
12 the crime in order to fix the degree of discipline or to determine if the conviction
13 is substantially related to the qualifications, functions, and duties of the licensee in
14 question.

15 As used in this section, 'license' includes 'certificate,' 'permit,'
16 'authority,' and 'registration.'

17 9. Section 4301 of the Code states:

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

22

23 (j) The violation of any of the statutes of this state, or any other state,
24 or of the United States regulating controlled substances and dangerous drugs.

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26 (l) The conviction of a crime substantially related to the
27 qualifications, functions, and duties of a licensee under this chapter. The record
28 of conviction of a violation of Chapter 13 (commencing with Section 801) of Title
29 21 of the United States Code regulating controlled substances or of a violation of
30 the statutes of this state regulating controlled substances or dangerous drugs shall
31 be conclusive evidence of unprofessional conduct. In all other cases, the record
32 of conviction shall be conclusive evidence only of the fact that the conviction
33 occurred. The board may inquire into the circumstances surrounding the
34 commission of the crime, in order to fix the degree of discipline or, in the case of
35 a conviction not involving controlled substances or dangerous drugs, to determine
36 if the conviction is of an offense substantially related to the qualifications,
37 functions, and duties of a licensee under this chapter. A plea or verdict of guilty
38 or a conviction following a plea of *nolo contendere* is deemed to be a conviction
39 within the meaning of this provision. The board may take action when the time
40 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
41 or when an order granting probation is made suspending the imposition of
42 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal

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

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4 (p) Actions or conduct that would have warranted denial of a license.
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6 REGULATORY PROVISIONS

7 10. California Code of Regulations, title 16, section 1769, states:
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9 (b) When considering the suspension or revocation of a facility or a
10 personal license on the ground that the licensee or the registrant has been
11 convicted of a crime, the board, in evaluating the rehabilitation of such person and
12 his present eligibility for a license will consider the following criteria:

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

14 (2) Total criminal record.

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

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

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

20 11. California Code of Regulations, title 16, section 1770, states:
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22 For the purpose of denial, suspension, or revocation of a personal or
23 facility license pursuant to Division 1.5 (commencing with Section 475) of the
24 Business and Professions Code, a crime or act shall be considered substantially
25 related to the qualifications, functions or duties of a licensee or registrant if to a
26 substantial degree it evidences present or potential unfitness of a licensee or
27 registrant to perform the functions authorized by his license or registration in a
28 manner consistent with the public health, safety, or welfare.

COST RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

(January 10, 2012 Conviction As Accessory to Attempted Murder On October 15, 2010)

13. Respondent subjected her license to discipline under sections 490 and 4301, subdivision (1) of the Code in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed pharmacy technician. The circumstances are as follows:

a. On or about January 10, 2012, in a criminal proceeding entitled *The People of the State of California vs. Sabrina Moroles*, in Riverside County Superior Court, Case Number INF10002381, Respondent was convicted on her plea of guilty to violating Penal Code (PC), section 32, accessory to the felonies of attempted murder and assault with a firearm. Respondent was charged with violation of PC section 664 and 187, attempted murder and PC section 245, subsection (a)(2), assault with firearm on person, felonies, which were dismissed upon a non guilty plea on a plea bargain of pleading guilty to the charge that led to conviction for violating PC section 32, accessory.

b. As a result of the conviction, on or about January 10, 2012, Respondent was sentenced to three years formal probation, and ordered to submit to the custody of the Riverside County Sheriff for 90 days with credit for 8 days actually served and 4 days for good conduct, and complete the balance of 78 days in LCA Electronic Monitoring Program in lieu of county jail. Respondent was also ordered to pay \$490.34 in fees, \$480.00 in fines, the Secure Continuous Remote Alcohol Monitoring (SCRAM) Program monitoring and installation fees, and the cost of probation supervision.

c. The facts that led to the conviction are that on or about October 15, 2010, in the City of Indio, California, Respondent's boyfriend and the victim got into an argument. During the argument, Respondent's boyfriend tossed his car keys to Respondent and told her to get his gun from his car. Respondent took her boyfriend's car keys, retrieved the gun, and tossed the gun to her boyfriend. The victim immediately began running away from the boyfriend, who fired five or six bullets at the victim hitting him in the back of his left bicep, and in his left buttocks, this bullet exited his left front groin area. Respondent drove the get away car that she

1 and her boyfriend fled the scene in. Shortly after the shooting, Respondent was apprehended by
2 the Indio Police Department.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Commission of Acts Involving Moral Turpitude, Dishonesty,
5 Fraud, Deceit, and Corruption)**

6 14. Respondent is subject to disciplinary action under section 4301, subdivision (f) of
7 the Code in that on or about October 15, 2010, Respondent knowingly and voluntarily
8 participated in the commission of an attempted murder. Respondent aided the assailant by
9 retrieving the gun that was used to shoot the victim and aided the assailant in driving him away
10 from the scene of the crime. By actively assisting in the crime, Respondent committed an act
11 involving moral turpitude, as detailed in paragraph 13, above.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Conduct That Would Have Warranted Denial of a License)**

14 15. Respondent is subject to disciplinary action under section 4301, subdivision (p) of
15 the Code in that Respondent was convicted as accessory to the felonies of attempted murder and
16 assault with a firearm, conduct that would have warranted the denial of a pharmacy technician
17 registration under section 480, subdivision (a)(1) of the Code, as detailed in paragraph 13, above.

18 **PRAYER**

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

21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 27620,
22 issued to Sabrina Moroles;

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2. Ordering Sabrina Moroles to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: March 29, 2012

James M. Fedak for Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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