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

10 In the Matter of the Accusation Against:

Case No. 4434

11 **BERTA A. ARELLANO**  
12 **720 Humbolt Drive**  
13 **Dixon, CA 95620**

**DEFAULT DECISION AND ORDER**

14 **Pharmacy Technician License No. TCH 27927**

[Gov. Code, §11520]

15 Respondent.

16 FINDINGS OF FACT

17 1. On or about January 7, 2013, Complainant Virginia K. Herold, in her official capacity  
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
19 Accusation No. 4434 against Berta A. Arellano (Respondent) before the Board of Pharmacy. (A  
20 copy of the ccusation is attached as Exhibit A.)

21 2. On or about December 23, 1998, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician License No. TCH 27927 to Respondent. The Pharmacy Technician License was in  
23 full force and effect at all times relevant to the charges brought in Accusation No. 4434 and will  
24 expire on March 31, 2014, unless renewed.

25 3. On or about January 14, 2013, Respondent was served by Certified and First Class  
26 Mail with copies of: Accusation No. 4434; a Statement to Respondent, a Notice of Defense; a  
27 Request for Discovery; and Discovery Statutes (Gov.Code, §§ 11507.5, 11507.6, 11507.7) at  
28 Respondent's address of record, which was and is: 720 Humboldt Drive, Dixon, CA 95620.

1           4. Pursuant to Business and Professions Code section 136 and/or 4100, and/or California  
2 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes  
3 thereto, are required to be reported and maintained with the Board.

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

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

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

12           7. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
13 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4434.

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

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

19           9. Pursuant to its authority under Government Code section 11520, the Board finds  
20 Respondent is in default. The Board will take action without further hearing and, based on the  
21 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
22 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
23 file at the Board's offices regarding the allegations contained in Accusation No. 4434, finds that  
24 the charges and allegations in Accusation No. 4434, are separately and severally, found to be true  
25 and correct by clear and convincing evidence.

26           10. Taking official notice of its own internal records, pursuant to Business and  
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
28 and Enforcement is \$1,812.50 as of May 9, 2013.

#### DETERMINATION OF ISSUES

1           1. Based on the foregoing findings of fact, Respondent Berta A. Arellano has subjected  
2 her Pharmacy Technician License No. TCH 27927 to discipline.

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

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

5           a.    Respondent's License is subject to revocation pursuant to Business and Professions  
6 Code section 4301(f), for acts involving moral turpitude, dishonesty, fraud, deceit, or corruption,  
7 in that Respondent: (i) Between on or about August 12, 2010 and on or about January 9, 2011,  
8 forged checks payable to herself or others on her behalf and/or passed or cashed checks payable  
9 to herself or others on her behalf, on the account of another, at least forty-nine (49) checks  
10 totaling at least \$26,950.00; (ii) On or about November 9, 2011, cashed a fictitious or fraudulent  
11 check in the amount of \$3,462.00; and (iii) On or about March 1, 2012, signed and returned to the  
12 Board a request to renew her License in which she falsely answered "No" to a question asking  
13 whether she had been convicted of any crime since she last renewed her License.

14           b.    Respondent's License is subject to revocation pursuant to Business and Professions  
15 Code section 4301(g), for making or signing document(s) falsely representing the existence or  
16 nonexistence of a state of facts, based on the circumstances described above.

17           c.    Respondent's License is subject to revocation pursuant to Business and Professions  
18 Code section(s) 4301(l) and/or 490, by reference to California Code of Regulations, title 16,  
19 section 1770, for the conviction of substantially related crime(s), in that on or about June 16,  
20 2011, in *People v. Berta A. Villasenor aka Berta A. Arellano aka Berta A. Vallasenor*, Case No.  
21 FCR283076 in Solano County Superior Court, Respondent was convicted of violating Penal Code  
22 section 476 (Forgery), a felony.

23           d.    Respondent's License is subject to revocation pursuant to Business and Professions  
24 Code section 4301, in that Respondent, as described above, engaged in unprofessional conduct.

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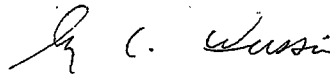
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 27927, heretofore issued to Respondent Berta A. Arellano, 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 August 21, 2013.

It is so ORDERED July 22, 2013.



STANLEY C. WEISSER, BOARD PRESIDENT  
FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

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DOJ Matter ID:SF2012403055

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 4434

11 **BERTA A. ARELLANO**  
12 **720 Humbolt Drive**  
13 **Dixon, CA 95620**

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

14 **Pharmacy Technician License No. TCH 27927**

15 Respondent.

16 Complainant alleges:

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18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about December 23, 1998, the Board of Pharmacy issued Pharmacy Technician  
22 License No. TCH 27927 to Berta A. Arellano (Respondent). The License was in force and effect  
23 at all times relevant to the charges herein and will expire on March 31, 2014, unless renewed.

24  
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 9. California Code of Regulations, title 16, section 1770, states:

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

8 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
10 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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12 FACTUAL BACKGROUND

13 11. Between on or about August 12, 2010 and on or about January 9, 2011, Respondent  
14 gained access to checks drawing on the account of another person (M.E.D.A.<sup>1</sup>), and made use of  
15 that access to forge checks payable to herself or others on her behalf and/or to pass or cash checks  
16 drawn on this account payable to herself or others on her behalf. The total number of checks that  
17 were fraudulently made by Respondent on the victim’s account is not known, but it was at least  
18 forty-nine (49) checks, for a total dollar amount of at least \$26,950.00.

19 12. On or about June 16, 2011, on the basis of the conduct described in paragraph 11, in a  
20 case titled *People v. Berta A. Villasenor aka Berta A. Arellano aka Berta A. Vallasenor*, Case No.  
21 FCR283076 in Solano County Superior Court, Respondent was convicted of violating Penal Code  
22 section 476 (Forgery), a felony. The circumstances of the conviction are described further below.

23 13. On or about November 9, 2011, Respondent cashed a fictitious or fraudulent check in  
24 the amount of \$3,462.00 at a grocery store located in Dixon, CA. The check was drawn on the  
25 account of a company that stated the account was the subject of a prior theft or fraud, and that the  
26 company had since changed its account information with the financial institution.

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28 <sup>1</sup> The victim’s full name will be provided to Respondent in discovery.





1 a. On or about March 7, 2011, on the basis of the conduct described in paragraph  
2 11, Respondent was charged by Felony Complaint in Case No. FCR283076 with one count of  
3 violating Penal Code section 476 (Forgery), a felony, with additional allegations that Respondent  
4 committed aggravating acts pursuant to California Rules of Court, rules 4.408 and 4.421;

5 b. On or about June 16, 2011, Respondent pleaded nolo contendere and was found  
6 guilty in Case No. FCR283076 of violating Penal Code section 476 (Forgery), a felony;

7 c. On or about July 14, 2011, the court ordered imposition of sentence suspended  
8 in Case No. FCR283076 in favor of a period of formal probation of five (5) years, with terms and  
9 conditions including 30 days in jail (1 day CTS), restitution of \$26,950.00, fines and fees;

10 d. On or about November 28, 2011, based on the conduct described in paragraph  
11 13, in a case titled *People v. Berta Villasenor aka Berta A. Arellano aka Berta A. Vallasenor aka*  
12 *Berta Alicia Villasenor*, Case No. FCR 289166 in Solano County Superior Court, Respondent  
13 was charged with violating (1) Penal Code section 476 (Forgery), (2) Penal Code section 487(a)  
14 (Grand Theft of Personal Property), (3) Penal Code section 532(a) (Obtaining Money, Labor, or  
15 Property by False Pretenses), and (4) Penal Code section 459 (2nd Degree Commercial Burglary);

16 e. On or about June 18, 2012, all charges in Case No. FCR289166 were dismissed  
17 pursuant to a Harvey waiver entered from Respondent allowing their consideration in Case No.  
18 FCR283076. On that same date, the probation ordered in Case No. FCR283076 was reinstated  
19 and modified, to continue as ordered on July 14, 2011 except that an additional term was added  
20 requiring payment by Respondent of restitution to the grocery store of \$3,462.00.

21 FOURTH CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct)

23 19. Respondent is subject to discipline under section 4301 of the Code in that  
24 Respondent, as described in paragraphs 11 to 18 above, engaged in unprofessional conduct.

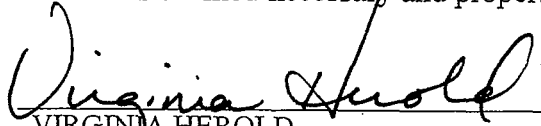
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26 PRAYER

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

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1. Revoking or suspending Pharmacy Technician License No. TCH 27927, issued to Berta A. Arellano (Respondent);
2. Ordering Respondent to pay the Board 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 is deemed necessary and proper.

DATED: 1/7/13



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

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