

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

In the Matter of the Accusation Against:

Case No. 4573

CINDY E. CABRERA
8519 Everest Street
Downey, CA 90242

Pharmacy Technician Registration No.
TCH 103550

Respondent.

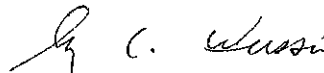
DECISION AND ORDER

The attached Stipulated Surrender of License 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 July 16, 2014.

It is so ORDERED on July 11, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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Attorney General of California
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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:

11 **CINDY E. CABRERA**
12 8519 Everest Street
13 Downey, CA 90242

14 **Pharmacy Technician Registration No. TCH**
103550

15 Respondent.

Case No. 4573
OAH No. 2014040178

STIPULATED SURRENDER OF
LICENSE AND ORDER

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

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Christine J. Lee, Deputy Attorney
23 General.

24 2. Cindy E. Cabrera (Respondent) is representing herself in this proceeding and has
25 chosen not to exercise her right to be represented by counsel.

26 3. On or about June 22, 2010, the Board of Pharmacy issued Pharmacy Technician
27 Registration No. TCH 103550 to Cindy E. Cabrera (Respondent). The Pharmacy Technician
28

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 4573. The license expired on November 30, 2013. Subsequently, the license was cancelled
3 due to a non-payment of renewal fees.

4 **JURISDICTION**

5 4. Accusation No. 4573 was filed before the Board of Pharmacy (Board), Department of
6 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
7 statutorily required documents were properly served on Respondent on November 19, 2013.
8 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
9 No. 4573 is attached as Exhibit A and incorporated by reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 4573. Respondent also has carefully read, and understands the effects of this
13 Stipulated Surrender of License and Order.

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

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

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 4573, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
26 Registration No. TCH 103550 for the Board's formal acceptance.

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ORDER

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2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 103550,
3 issued to Respondent Cindy E. Cabrera, is surrendered and accepted by the Board of Pharmacy.

4 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
5 of the surrendered license by the Board shall constitute the imposition of discipline against
6 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
7 Respondent's license history with the Board of Pharmacy.

8 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
9 as of the effective date of the Board's Decision and Order.

10 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
11 issued, her wall certificate on or before the effective date of the Decision and Order.

12 4. If she ever applies for licensure or petitions for reinstatement in the State of
13 California, the Board shall treat it as a new application for licensure. Respondent must comply
14 with all the laws, regulations and procedures for licensure in effect at the time the application or
15 petition is filed, and all of the charges and allegations contained in Accusation No. 4573 shall be
16 deemed to be true, correct and admitted by Respondent when the Board determines whether to
17 grant or deny the application or petition.

18 5. Respondent stipulates that should she apply for any license from the board on or after
19 the effective date of this decision, investigation and prosecution costs in the amount of \$3,137.50
20 shall be paid to the board prior to issuance of the license.

21 6. If Respondent should ever apply or reapply for a new license or certification, or
22 petition for reinstatement of a license, by any other health care licensing agency in the State of
23 California, all of the charges and allegations contained in Accusation, No. 4573 shall be deemed
24 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
25 other proceeding seeking to deny or restrict licensure.

26 7. Respondent may not apply for any license, permit, or registration from the board for
27 three (3) years from the effective date of this decision. Respondent stipulates that should she
28 apply for any license from the board on or after the effective date of this decision, all allegations

1 set forth in the accusation shall be deemed to be true, correct and admitted by respondent when
2 the board determines whether to grant or deny the application.

3 8. Respondent shall satisfy all requirements applicable to that license as of the date the
4 application is submitted to the board, including, but not limited to certification by a nationally
5 recognized body prior to the issuance of a new license. Respondent is required to report this
6 surrender as disciplinary action.

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ACCEPTANCE


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

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DATED: 08-19-2014


CINDY E. CABRERA
Respondent

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ENDORSEMENT

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

Dated: 6/20/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



CHRISTINE J. LEE
Deputy Attorney General
Attorneys for Complainant

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6/13/14

Exhibit A

Accusation No. 4573

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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **CINDY ELIZABETH CABRERA**
14 8519 Everest Street
Downey, CA 90242

15 Pharmacy Technician Registration
No. TCH 103550

Respondent.

Case No. 4573

A C C U S A T I O N

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about June 22, 2010, the Board of Pharmacy (Board) issued Pharmacy
21 Technician Registration No. TCH 103550 to Cindy Elizabeth Cabrera (Respondent). The
22 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
23 brought herein and will expire on November 30, 2013, unless renewed.

24 **JURISDICTION**

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

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STATUTORY PROVISIONS

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2 4. Section 4300 of the Code provides in pertinent part, that every license issued by the
3 Board is subject to discipline, including suspension or revocation.

4 5. Section 4300.1 of the Code states:

5 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
6 operation of law or by order or decision of the board or a court of law, the placement of a license
7 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
8 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
9 proceeding against, the licensee or to render a decision suspending or revoking the license."

10 6. Section 4301 of the Code states, in pertinent part:

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

14

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

18 ...

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

24

25 "(l) The conviction of a crime substantially related to the qualifications, functions, and
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

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 REGULATORY PROVISION

15 7. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

22 COST RECOVERY

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

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FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

9. Respondent is subject to disciplinary action under Code sections 4301, subdivision (l) in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician, as follows:

a. On or about December 22, 2011, pursuant to her *nolo contendere* plea, Respondent was convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [theft] in the criminal case entitled *The People of the State of California v. Cindy E. Cabrera* (Super. Ct. Los Angeles County, 2011, No. 1WW05271). The Court sentenced Respondent to serve 1 day in Los Angeles County Jail and placed her on 1 year probation, with terms and conditions.

b. The circumstances of the conviction are that on or about October 20, 2011, Respondent entered a WalMart store in Pico Rivera, California, selected several items of merchandise, concealed them in her purse, and exited the store without paying for the items.

SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud or Deceit)

10. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that on or about October 20, 2011, Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Dangerous Use of a Controlled Substance)

11. Respondent is subject to disciplinary action under Code section 4301, subdivision (h), in that on or about September 8, 2011, Respondent administered or used a controlled substance to the extent or in a manner as to be dangerous or injurious to herself, as follows:

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1 a. On or about September 8, 2011, Respondent was found unconscious on the bathroom
2 floor and transported to the hospital for drug overdose. Respondent admitted to the police
3 officers that she had been using Heroin, a controlled substance, for the last 3-4 months, by
4 injecting Heroin into the veins in her arms and hands.

5 PRAYER

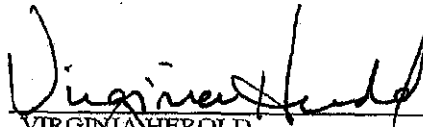
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Board issue a decision:

8 1. Revoking or suspending Pharmacy Technician Registration No. TCH 103550, issued
9 to Cindy Elizabeth Cabrera;

10 2. Ordering Cindy Elizabeth Cabrera to pay the Board the reasonable costs of the
11 investigation and enforcement of this case, pursuant to section 125.3; and

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

13
14 DATED: 11/4/13


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant