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

In the Matter of the Accusation Against:  
**MARY A. LOYA**  
13030 Goleta St.  
Pacoima, CA 91331  
  
Pharmacy Technician Registration No. TCH  
27782  
  
Respondent.

Case No. 4910  
  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about November 4, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4910 against Mary A. Loya (Respondent) before the Board of Pharmacy. (Accusation attached as **Exhibit A.**)
2. On or about December 9, 1998, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 27782 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4910, expired on March 31, 2014, and has not been renewed.
3. On or about November 20, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4910, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
4 record was and is 13030 Goleta Street, Pacoima, CA 91331.

5 4. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
7 124.

8 5. On or about November 25, 2013, a postal return receipt showing the aforementioned  
9 package of documents served by certified mail had been delivered to and signed for by the  
10 addressee on November 22, 2013, was received at the Attorney General's office. The package  
11 sent by first class mail was not returned and presumably also received by the addressee.

12 6. 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 7. 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. 4910.

20 8. 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 9. 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. 4910, finds that  
the charges and allegations in Accusation No. 4910, are separately and severally, found to be true  
and correct by clear and convincing evidence.



1 Police Department for violating Health and Safety Code section 11173, subdivision (a)  
2 [prescription fraud].

3 (3) Xanax -- is a brand name for the drug Alprazolam, a Schedule IV controlled  
4 substance as designated by Health and Safety Code section 11057, subdivision (d)(1) and is  
5 categorized as a dangerous drug pursuant to section 4022. It is used for treatment of  
6 anxiety.

7 (4) The Board expressly finds that Respondent's August 2012 conviction under  
8 Penal Code section 602, subdivision (k) was substantially related to the qualifications,  
9 functions or duties of her pharmacy technician registration and that the conviction  
10 evidences present and potential unfitness of the licensee to perform the functions  
11 authorized by her license in a manner consistent with the public health, safety, or welfare."

12 B. Respondent is subject to disciplinary action under Business and Professions Code  
13 section 4301, subdivision (f), in that while employed at Rite-Aid, on or about May 9, 2012,  
14 Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially  
15 benefit herself, or substantially injure another, said acts resulting in her criminal conviction for  
16 trespassing on August 2, 2012, as described above.

17 C. Respondent is subject to disciplinary action under Business and Professions Code  
18 section 4301, subdivision (j) and (o), for violating section 4060, and Health and Safety Code  
19 section 11173, subdivision (a), in that on or about May 9, 2012, Respondent illegally obtained or  
20 possessed controlled substances, said conduct resulting in her criminal conviction for trespassing  
21 on August 2, 2012, as described above.

22 D. Respondent is subject to disciplinary action under Business and Professions Code  
23 section 4301, (o), in that Respondent committed acts of unprofessional conduct and/ or violated  
24 provisions of the licensing chapter on or about May 9, 2012, said acts resulting in her criminal  
25 conviction for trespassing on August 2, 2012, as described above.

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**ORDER**

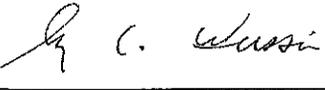
IT IS ORDERED that Pharmacy Technician Registration No. TCH 27782, heretofore issued to Respondent **MARY A. LOYA**, is revoked.

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 July 9, 2014.

It is so ORDERED June 9, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
STAN C. WEISSER  
Board President

51482591.DOC  
DOJ Matter ID:LA2013510180

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106092  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 4910

11 **MARY A. LOYA**  
12 13030 Goleta St.  
13 Pacoima, CA 91331

**ACCUSATION**

14 Pharmacy Technician Registration  
No. TCH 27782

15 Respondent.

16  
17 Complainant alleges:

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 9, 1998, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician Registration No. TCH 27782 to Mary A. Loya (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 March 31, 2014, unless renewed.

25 **JURISDICTION**

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

28 *///*



1 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a  
2 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and  
3 devices."

4 6. Section 4300 provides in pertinent part, that every license issued by the Boards is  
5 subject to discipline, including suspension or revocation.

6 7. Section 4300.1 states:

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

12 8. Section 4301 states, in pertinent part:

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

16 . . . .

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

20 . . . .

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

23 . . . .

24 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
27 substances or of a violation of the statutes of this state regulating controlled substances or  
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

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

13 . . . .

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

18 9. Health and Safety Code section 11173 states, in pertinent part:

19 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or  
20 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
21 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

22 "(b) No person shall make a false statement in any prescription, order, report, or record,  
23 required by this division."

24 **REGULATORY PROVISIONS**

25 10. California Code of Regulations, title 16, section 1770 states, in pertinent part:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license  
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
2 licensee or registrant to perform the functions authorized by his license or registration in a manner  
3 consistent with the public health, safety, or welfare."

#### 4 COST RECOVERY

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

#### 9 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

10 12. **Xanax** – is the brand name for the drug Alprazolam , a Schedule IV controlled  
11 substance as designated by Health and Safety Code section 11057, subdivision (d)(1) and is  
12 categorized as a dangerous drug pursuant to section 4022. It is used for treatment of anxiety.

#### 13 FIRST CAUSE FOR DISCIPLINE

#### 14 (Conviction of a Substantially Related Crime)

15 13. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
16 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
17 Respondent was convicted of a crime substantially related to the qualifications, functions or  
18 duties of a pharmacy technician as follows:

19 a. On or about August 2, 2012, after pleading nolo contendere, Respondent was  
20 convicted of one interlineated misdemeanor of violating Penal Code section 602,  
21 subdivision (k) [trespassing] in the criminal proceeding entitled *The People of the State of*  
22 *California v. Mary Loya* (Super. Ct. Los Angeles County, 2012, No. 2SR02410). The  
23 Court sentenced Respondent to serve 30 days in Los Angeles County Jail and placed her on  
24 36 months probation, with terms and conditions.

25 b. The circumstances surrounding the conviction are that on or about April 16,  
26 2012, Respondent - while employed and on duty as a pharmacy technician at a Rite-Aid  
27 5563 pharmacy located in Panorama City - was informed by a customer that he would not  
28 be picking up his prescription for .5mg of Xanax because it was too strong for him. The

1 customer asked that the drug be returned to stock, and that the pharmacy contact his doctor  
2 to have the dosage lowered. Respondent failed to delete the customer's order and was  
3 observed on the security surveillance video taking the prescription from the shelf, scanning  
4 it, and paying the cashier for it. Respondent was subsequently arrested, by the Los Angeles  
5 Police Department for violating Health and Safety Code section 11173, subdivision (a)  
6 [prescription fraud].

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Acts Involving Dishonesty, Fraud, or Deceit)**

9 14. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
10 that while employed at Rite-Aid, Respondent committed acts involving dishonesty, fraud, or  
11 deceit with the intent to substantially benefit herself, or substantially injure another. Complainant  
12 refers to, and by this reference incorporates, the allegations set forth above in paragraph 13,  
13 subparagraph (b), as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Illegally Obtained or Possessed Controlled Substances)**

16 15. Respondent is subject to disciplinary action under section 4301, subdivision (j) and  
17 (o), for violating section 4060, and Health and Safety Code section 11173, subdivision (a), in that  
18 on or about May 9, 2012, Respondent illegally obtained or possessed controlled substances.  
19 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
20 paragraph 13, subparagraph (b), as though set forth fully.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

23 16. Respondent is subject to disciplinary action under section 4301, (o), in that  
24 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing  
25 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above  
26 in paragraphs 13-15, inclusive, as though set forth fully.

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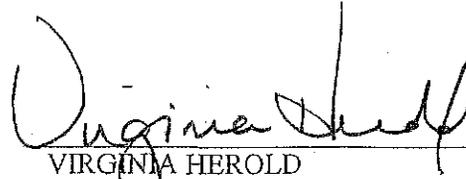
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 27782, issued to Mary A. Loya;
2. Ordering Mary A. Loya to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

11/4/13



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

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