

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

In the Matter of the Accusation Against:  
**DAMIAN CLEMENTE MORA**  
2390 West Orange Avenue  
El Centro, CA 92243  
**Pharmacy Technician Registration No. TCH 67104**  
  
Respondent.

Case No. 4977  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On April 4, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4977 against Damian Clemente Mora (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On January 20, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 67104 to Respondent. The Pharmacy Technician Registration expired on December 31, 2013, and was cancelled on April 6, 2014. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.
3. On April 11, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4977, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)  
2 at Respondent's address of record which, pursuant to Business and Professions Code section  
3 4100, is required to be reported and maintained with the Board. Respondent's address of record  
4 was and is 2390 West Orange Avenue, El Centro, CA 92243.

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 Business & Professions Code section 124.

7 5. On April 16, 2014, the domestic return receipt for the aforementioned documents  
8 was returned by the U.S. Postal Service indicating receipt on April 14, 2014.

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

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

15 7. Respondent failed to file a Notice of Defense within 15 days after service upon  
16 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
17 No. 4977.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Board finds  
24 Respondent is in default. The Board will take action without further hearing and, based on the  
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
27 file at the Board's offices regarding the allegations contained in Accusation No. 4977, finds that  
28 the charges and allegations in Accusation No. 4977, are separately and severally, found to be true  
and correct by clear and convincing evidence.

///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

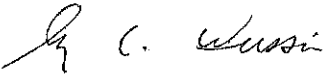
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 67104, heretofore issued to Respondent Damian Clemente Mora, is revoked.

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

70872382.DOC  
DOJ Matter ID:SD2013706200

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4977

13 **DAMIAN CLEMENTE MORA**  
2390 West Orange Avenue  
14 El Centro, CA 92243

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

15 **Pharmacy Technician Registration No. TCH 67104**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On January 20, 2005, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 67104 to Damian Clemente Mora (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and expired on December 31, 2013, and has not been renewed.

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**JURISDICTION**

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

4. Section 4300, subdivision (a), of the Code provides that every license issued by the Board may be suspended or revoked.

5. Section 4300.1 of the Code states:

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

**STATUTORY PROVISIONS**

6. Section 4301 of the Code states:

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

(a) Gross immorality.

....

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

....

**COST RECOVERY**

7. Section 125.3 of the Code provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Commission of Acts Involving Gross Immorality)**

3 8. Respondent has subjected his pharmacy technician registration to discipline under  
4 Code section 4301, subdivision (a), in that he committed acts involving gross immorality when  
5 he possessed images of children engaged in sexually explicit conduct. The circumstances are that  
6 on June 26, 2011, Respondent opened an account with a website for pedophiles. The child  
7 pornography website began an online forum for users to post "fantasy" stories about little girls.  
8 On July 27, 2011, Respondent posted on the website four pornographic images of a girl, about  
9 seven to nine years old. On July 31, 2011, Respondent posted on the website that he had tons of  
10 modeling material and that he was interested in young nude photographs. On August 8, 2011,  
11 Respondent posted another set of pornographic images of the same girl. As of November 2011,  
12 Respondent had posted sexually explicit pictures and stories of sexual interaction with children  
13 approximately 80 times.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct - Commission of Any Act Involving Moral Turpitude, Dishonesty,  
16 Fraud, Deceit, or Corruption)**

17 9. Respondent has subjected his pharmacy technician registration to discipline under  
18 Code section 4301, subdivision (f), in that he committed acts involving moral turpitude,  
19 dishonesty, fraud, deceit, and corruption when he possessed images of children engaged in  
20 sexually explicit conduct, as detailed in paragraph 8, above.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacy Technician Registration Number TCH 67104,  
25 issued to Damian Clemente Mora;

26 ///

27 ///

28 ///



