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

In the Matter of the Accusation Against:

Case No. 4979

**BESSY PINEDA
22121 Cantara St.
Canoga Park, CA 91304
Pharmacy Technician Registration No. TCH
22275**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about May 8, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4979 against Bessy Pineda (Respondent) before the Board of Pharmacy.

(Accusation attached as Exhibit A.)

2. On or about May 13, 1997, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 22275 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4979 and will expire on July 31, 2014, unless renewed. This lapse in licensure, however, pursuant to

1 Business and Professions Code section 118(b) and/or agency-specific statute does not deprive the
2 [Board] of its authority to institute or continue this disciplinary proceeding.

3 3. On or about May 28, 2014, Respondent was served by Certified Mail copies of the
4 Accusation No. 4979, Statement to Respondent, Notice of Defense, Request for Discovery, and
5 Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's
6 address of record which, pursuant to Business and Professions Code section 4100, is required to
7 be reported and maintained with the Board. Respondent's address of record was and is:

8 22121 Cantara St.
9 Canoga Park, CA 91304.

10 4. Service of the Accusation was effective as a matter of law under the provisions of
11 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
12 124.

13 5. On or about June 9, 2014, the aforementioned documents were returned by the U.S.
14 Postal Service marked "unclaimed."

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

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

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
22 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4979.

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

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

28 9. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on

1 file at the Board's offices regarding the allegations contained in Accusation No. 4979, finds that
2 the charges and allegations in Accusation No. 4979, are separately and severally, found to be true
3 and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
6 and Enforcement is \$3,035.00 as of October 30, 2014.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Bessy Pineda has subjected her
9 Pharmacy Technician Registration No. TCH 22275 to discipline.

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

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

14 A. Section 490, 4300 and 4301, subdivision (l), of the Business & Professions Code, in
15 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of
16 unprofessional conduct, in that Respondent was convicted of crimes substantially related to the
17 qualifications, functions or duties of a registered pharmacy technician which to a substantial
18 degree evidence her present or potential unfitness to perform the functions authorized by her
19 registration in a manner consistent with the public health, safety, or welfare, as follows:

20 a. On or about June 5, 2012, after pleading *nolo contendere*, Respondent was
21 convicted of one misdemeanor count of violating Penal Code section 242 [battery], in the
22 criminal proceeding entitled *The People of the State of California v. Bessy Pineda* (Super. Ct. Los
23 Angeles County, 2012, No. 2PY00864).

24 b. On or about December 12, 2012, after pleading *nolo contendere*, Respondent
25 was convicted of one misdemeanor count of violating Penal Code section 484(a) [petty theft], in
26 the criminal proceeding entitled *The People of the State of California v. Bessy Pineda* (Super. Ct.
27 Los Angeles County, 2012, No. 2PY03488).

28

1 c. On or about May 29, 2013, after pleading *nolo contendere*, Respondent was
2 convicted of one felony count of violating Penal Code section 211 [robbery], in the criminal
3 proceeding entitled *The People of the State of California v. Bessy Pineda* (Super. Ct. Los Angeles
4 County, 2013, No. PA072747).

5 B. Sections 4300 and 4301, subdivision (f), of the Business & Professions Code, on the
6 grounds of unprofessional conduct, in that Respondent committed acts involving moral turpitude,
7 dishonesty, fraud, deceit and / or corruption, as set forth above.

8 C. Sections 4300 and 4301, subdivision (p), on the grounds of unprofessional conduct, in
9 that on May 17, 2013, Respondent, the estranged wife of an employee at the Post Office,
10 attempted to hit Postmaster M.D.¹, at the Woodland Hills Main Post Office, with her vehicle, in
11 the employee parking lot. On June 12, 2013, Office of the District Attorney filed a Complaint
12 against the Respondent and charged her with felony count of violating Penal Code section 245(a)
13 [assault with deadly weapon], in the criminal proceeding entitled *The People of the State of*
14 *California v. Bessy Pineda* (Super. Ct. Los Angeles County, 2013, No. LA074315).

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28 ¹ In order to protect the privacy of the individual, the first initial of his first and last name is being used

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ORDER

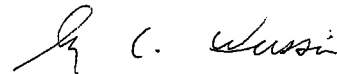
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 22275, heretofore issued to Respondent Bessy Pineda, is revoked.

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 December 26, 2014.

It is so ORDERED on November 26, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

51604923.DOC
DOJ Matter ID:LA2013510695

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 MORGAN MALEK
Deputy Attorney General
4 State Bar No. 223382
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2643
6 Facsimile: (213) 897-2804
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. 4979

11 **BESSY PINEDA**
12 **22121 Cantara St.**
13 **Canoga Park, CA 91304**

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
22275

15 Respondent.

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21 Complainant alleges:

22 **PARTIES**

23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.1. On or
25 about May 13, 1997, the Board of Pharmacy issued Pharmacy Technician Registration Number
26 TCH 22275 to Bessy Pineda (Respondent). The Pharmacy Technician Registration was in full
27 force and effect at all times relevant to the charges brought herein and will expire on July 31,
28 2014, unless renewed.

1 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
2 revoked."

3 7. Section 4301 states, in pertinent part:

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

7

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

11

12 "(l) The conviction of a crime substantially related to the qualifications, functions, and
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
18 The board may inquire into the circumstances surrounding the commission of the crime, in order
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
20 dangerous drugs, to determine if the conviction is of an offense substantially related to the
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
23 of this provision. The board may take action when the time for appeal has elapsed, or the
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
28 indictment. . . ."

1 **REGULATORY PROVISION**

2 8. California Code of Regulations, title 16, section 1770, states:

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

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Convictions of Substantially-Related Crimes)**

16 10. Respondent is subject to disciplinary action under section 490, 4300 and 4301,
17 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
18 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
19 related to the qualifications, functions or duties of a registered pharmacy technician which to a
20 substantial degree evidence her present or potential unfitness to perform the functions authorized
21 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

22 a. On or about June 5, 2012, after pleading *nolo contendere*, Respondent was convicted
23 of one misdemeanor count of violating Penal Code section 242 [battery], in the criminal
24 proceeding entitled *The People of the State of California v. Bessy Pineda* (Super. Ct. Los Angeles
25 County, 2012, No. 2PY00864). Respondent was placed on summary probation for a period of two
26 (2) years with terms and conditions. Respondent was ordered to serve 1 day in Los Angeles
27 County Jail, pay fines and restitution, no to use force or violence, not to harass or annoy any
28 person, stay 100 yards away from the victim Z.K., stay away from Kaiser Woodland Hills

1 Diagnostic Imaging Center, enroll in and complete 24 counseling sessions, and ordered to obeys
2 all laws and orders of the Court. The circumstances surrounding the conviction are that on or
3 about January 16, 2012, Los Angeles Police Officer was dispatched to respond to a battery call at
4 Kaiser Woodland Hills Diagnostic Imaging Center. The officer met the victim who was
5 employed as an ultrasound technician at Kaiser Hospital. The victim was attempting to take
6 ultrasound images of the Respondent who was angry at the victim because she believed she had
7 been waiting too long. Respondent threw and poured urine on the victim's face and head area.
8 Respondent stated "[Y]ou deserve it, that's what you get. You will hear from me." Respondent
9 then fled the ultrasound area on foot. The urine entered victim's eyes and mouth and dripped
10 down her body. The urine further landed on the victim's head.

11 b. On or about December 12, 2012, after pleading *nolo contendere*, Respondent was
12 convicted of one misdemeanor count of violating Penal Code section 484(a) [petty theft], in the
13 criminal proceeding entitled *The People of the State of California v. Bessy Pineda* (Super. Ct. Los
14 Angeles County, 2012, No. 2PY03488). Respondent was placed on probation for three (3) years,
15 ordered to pay fines and restitution and to complete 30 days of community service, and ordered to
16 obeys all laws and orders of the Court. The circumstances surrounding the conviction are that on
17 or about June 19, 2012, Respondent exited Macy's store without paying for the merchandise. The
18 total value of the stolen merchandise was \$292.60.

19 c. On or about May 29, 2013, after pleading *nolo contendere*, Respondent was convicted
20 of one felony count of violating Penal Code section 211 [robbery], in the criminal proceeding
21 entitled *The People of the State of California v. Bessy Pineda* (Super. Ct. Los Angeles County,
22 2013, No. PA072747). Respondent was placed on formal probation for a period of five (5) years.
23 She was ordered to serve 2 days in Los Angeles County Jail, pay fines and restitution, submit to
24 search and seizures at anytime by any peace officer, probation officer, treatment provider or
25 parole agent without warrant, probable cause, or reasonable cause, submit to periodic controlled
26 substance testing when requested, provide buccal swab samples and obeys all laws and orders of
27 the court. The circumstances surrounding the conviction are that on or about February 1, 2012,
28 Los Angeles Police Officers were dispatched to the Macy's store. Macy's store Loss & Prevention

1 Officer observed Respondent selecting multiple Macy's items, walking to the fitting room and
2 exiting the fitting room with a full Macy's bag. Respondent exited Macy's store without paying
3 for the merchandise she concealed inside the Macy's bag. Once outside the Macy's store, the
4 Loss & Prevention Officer approached the Respondent and identified herself. Respondent pushed
5 the Loss & Prevention Officer attempting to escape. The Loss & Prevention Officer attempted to
6 detain the Respondent, however, Respondent leaned forward and began to bite the Loss &
7 Prevention Officer on both wrists trying to escape. Due to pain of just being bit twice, the Loss &
8 Prevention Officer released the Respondent at which point Respondent began to run through the
9 parking lot. Mall Security assisted the Loss & Prevention Officer to take Respondent into
10 custody. Respondent maintained possession of the stolen property during the entire incident.
11 Respondent was escorted back into the Macy's security office for further investigation. The Loss
12 & Prevention Officer recovered all unpaid merchandise that Respondent had concealed in the
13 Macy's bag she was carrying. Respondent was placed under private person arrest for petty theft,
14 911 was called for assistance. Los Angeles Police Officers observed Respondent having scrapes
15 to her knees, bruising to her arms and small cut to her bottom lip.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

18 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
19 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
20 involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to,
21 and by this reference incorporates, the allegations set forth above in paragraph 10, as though set
22 forth fully.

23 **THIRD CAUSE FOR DISCIPLINE**

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

25 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
26 subdivision (p), on the grounds of unprofessional conduct, in that on May 17, 2013, Respondent,
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1 the estranged wife of an employee at the Post Office, attempted to hit Postmaster M.D.¹, at the
2 Woodland Hills Main Post Office, with her vehicle, in the employee parking lot. Respondent
3 initially came to the Woodland Hills Main Post Office looking for her husband, J.P.² Respondent
4 attempted to obtain J.P.'s signature on a tax return check. J.P. refused to sign the tax return check
5 and told her to leave. Respondent gained access to the workroom floor through the back door
6 area. Postmaser M.D. observed the Respondent and asked her to leave. Respondent proceeded to
7 exit while grabbing and throwing Delivery Point Sequence mail. Respondent went inside her
8 vehicle which was parked adjacent to the employee parking lot and attempted to hit Postmater
9 M.D. three (3) times with her vehicle. Subsequently, Respondent left the scene. Postal Inspectors
10 went to the Respondent's residence and were greeted by the Respondent's daughter, M.P.³ who
11 allowed the Postal Inspectors to enter the residence. Subsequently, Respondent arrived at her
12 residence. Postal Inspector T.P.⁴ greeted the Respondent outside the residence and identified
13 herself. Respondent stated "[Y]ou are all welcome to come inside," as she walked towards the
14 front door. Accordingly, Postal Inspectors walked inside the residence. Subsequently,
15 Respondent turned to Postal Inspector T.O. and said "[I] did not ask you to come inside my home,
16 get out!" Postal Inspector T.O. stepped outside. Inspector T.O. asked Respondent if she could
17 come inside her residence, and Respondent stated "[Y]ou can come in." Postal Inspector T.O.
18 walked inside the residence and the other Postal Inspector remained outside. Postal Inspector
19 T.O. attempted to interview Respondent regarding the above referenced incident at the Woodland
20 Hills Main Post Office, however, she denied any involvement and proceeded to yell. The Postal
21 Inspectors tried to calm the Respondent to no avail. The Postal Inspectors told the Respondent
22 that they only wanted to know if she had any intent to hurt anyone at the Woodland Hills Main
23 Post Office. Respondent yelled at the inspectors, started to behave erratically and demanded the
24 inspectors to leave. Accordingly, the postal Inspector left the residence. Los Angeles Police
25 Officers were dispatched to the Respondent's residence. The Los Angeles Police Officers arrived

26 ¹ In order to protect the privacy of the individual, the first initial of his first and last name is being used

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⁴ In order to protect the privacy of the individual, the first initial of his first and last name is being used

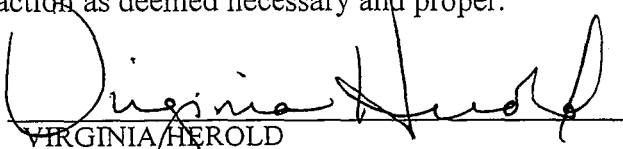
1 at Respondent's residence and they noticed that Respondent was outside her residence. They
2 approached her, however, Respondent ran inside her residence. The police Officers followed her
3 into her residence and placed her under arrest. Inspector T.O. tried to speak to the Respondent,
4 however, Respondent kept yelling at her and would not answer any questions. Respondent was
5 taken into custody. On June 12, 2013, Office of the District Attorney filed a Complaint against
6 the Respondent and charged her with felony count of violating Penal Code section 245(a) [assault
7 with deadly weapon], in the criminal proceeding entitled *The People of the State of California v.*
8 *Bessy Pineda* (Super. Ct. Los Angeles County, 2013, No. LA074315). The case is presently
9 pending before the Superior Court of California and the pretrial conference is scheduled for
10 March 21, 2014. Complainant requests leave to amend the present Accusation to include any
11 criminal convictions arising from the above referenced case (Case No. LA074315). Further,
12 Probation Violation hearings were scheduled for Respondent's other criminal convictions for the
13 following cases: Case Nos. 2PY00864, PA072747, and 2PY03488.

14 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 22275,
18 issued to Bessy Pineda
- 19 2. Ordering Bessy Pineda to pay the Board of Pharmacy the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 5/8/14


24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

LA2013510695