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8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	In the Matter of the Accusation Against:	Case No. 5520	
12	NICOLE YVONNE FLORES		
13	1374 Hilltop Drive Chula Vista, CA 91911	DEFAULT DECISION AND ORDER	
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15	Pharmacy Technician Registration No. TCH 81360	[Gov. Code, §11520]	
16	Respondent.		
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18	FINDINGS OF FACT		
19	1. On or about July 13, 2015, Complainant Virginia K. Herold, in her official capacity		
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed		
21	Accusation No. 5520 against Nicole Yvonne Flores (Respondent) before the Board of Pharmacy.		
22	(Accusation attached as Exhibit A.)		
23	2. On or about February 26, 2008, the Board of Pharmacy (Board) issued Pharmacy		
24	Technician Registration No. TCH 81360 to Respondent. The Pharmacy Technician Registration		
25	was in full force and effect at all times relevant to the charges brought in Accusation No. 5520		
26	and will expire on January 31, 2016, unless renewed.		
27	3. On or about July 14, 2015, Respondent was served by Certified and First Class Mail		
28	copies of the Accusation No. 5520, Statement to Respondent, Notice of Defense, Request for		
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Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is: 1374 Hilltop Drive, Chula Vista, CA 91911.

- 4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c) and/or Business & Professions Code section 124.
- 5. On or about July 20, 2015, the domestic return receipt reflecting service of the aforementioned documents via Certified Mail was returned by the U.S. Postal Service with a signature and a date of delivery for "July 16, 2015." As of August 4, 2015, the aforementioned documents sent via First Class Mail have not been returned by the U.S. Postal Service.
 - 6. Government Code section 11506 states, in pertinent part:
 - (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.
- 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5520.
 - 8. California Government Code section 11520 states, in pertinent part:
 - (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.
- 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 file at the Board's offices regarding the allegations contained in Accusation No. 5520, finds that the charges and allegations in Accusation No. 5520, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$357.50 as of August 4, 2015.

DETERMINATION OF ISSUES

- 1. Based on the foregoing findings of fact, Respondent Nicole Yvonne Flores has subjected her Pharmacy Technician Registration No. TCH 81360 to discipline.
 - 2. The agency has jurisdiction to adjudicate this case by default.
- 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case.:
- a. Respondent committed an act involving dishonesty, fraud, deceit, or corruption, when she stole patient profiles from her employer and gave them to a third party to be used for identity theft purpose in violation of Business and Professions Code section 4301, subdivision (f).
- . b. Respondent's actions in stealing patient profiles from her employer and giving them to a third party to be used for identity theft purposes constitutes general unprofessional conduct in violation of Business and Professions Code section 4301.
- c. Respondent violated Business and Professions Code section 4301, subdivision (o) when she violated federal and state laws, including the Health Insurance Portability and Accountability Act (HIPAA) and Civil Code section 56.10.

ORDER 1 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 81360, heretofore 2 issued to Respondent Nicole Yvonne Flores, is revoked. 3 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a 4 written motion requesting that the Decision be vacated and stating the grounds relied on within 5 seven (7) days after service of the Decision on Respondent. The agency in its discretion may 6 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute. 7 This Decision shall become effective on September 25, 2015. 8 It is so ORDERED August 26, 2015. 9 10 **BOARD OF PHARMACY** DEPARTMENT OF CONSUMER AFFAIRS 11 STATE OF CALIFORNIA 12 13 14 By15 Amy Gutierrez, Pharm.D. 16 **Board President** 17 81118957,DOC DOJ Matter ID:SD2015801607 18 19 Attachment: Exhibit A: Accusation 20 21 22 23 24 25 26 27 28

Exhibit A

Accusation

1	KAMALA D. HARRIS		
2	Attorney General of California JAMES M. LEDAKIS		
3	Supervising Deputy Attorney General NICOLE R. TRAMA		
4	Deputy Attorney General State Bar No. 263607		
5	600 West Broadway, Suite 1800 San Diego, CA 92101		
6	P.O. Box 85266 San Diego, CA 92186-5266		
7	Telephone: (619) 645-2143 Facsimile: (619) 645-2061		
8	Attorneys for Complainant :		
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10	BEFORE THE		
11	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
	STATE OF CALIFO	DRNIA	
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13	In the Matter of the Accusation Against:	Case No. 5520	
14	NICOLE YVONNE FLORES 1374 Hilltop Drive		
15	Chula Vista, CA 91911	ACCUSATION	
16	Pharmacy Technician Registration No. TCH 81360		
17			
18	Respondent.		
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20	Complainant alleges:		
21	PARTIES		
22	Virginia Herold (Complainant) brings this Accusation solely in her official		
23	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,		
24	2. On or about February 26, 2008, the Board of Pharmacy issued Pharmacy		
25	Technician Registration Number TCH 81360 to Nicole Yvonne Flores (Respondent). The		
26	Pharmacy Technician Registration was in full force and effect at all times relevant to the		
27	charges brought herein and will expire on January 31, 2016, unless renewed.		
28	<i>III</i>		
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		(NICOLE YVONNE FLORES) ACCUSATION	

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 unless otherwise indicated.
- 4. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."
 - Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of 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:

(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.

- (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.
- 7. Civil Code section 56.10 states, in part, that a provider of health care, health care service plan, or contractor shall not disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization.

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 8. 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.

FACTUAL ALLEGATIONS

- 9. Nicole Yvonne Flores was employed as a pharmacy technician at CVS Pharmacy Store Number 9115, located in Imperial Beach (hereinafter "CVS), California, from 2008 until June 2015. In early June 2015, CVS was notified by the Secret Service of the results of a raid on Respondent's apartment. Secret Service informed CVS that Respondent was in possession of CVS patient records. Subsequently, CVS staff interviewed Respondent on June 10, 2015.
- 10. During an interview with CVS staff, Respondent admitted that she removed patient information from CVS Store Number 9115. Respondent stated that she started taking patient information from CVS Store Number 9115 in May 2013. She admitted that she took one to two profiles once or twice per two weeks. In total, she stated that she took approximately 100 patient profiles from CVS Pharmacy. Respondent stated that she took patient information from May 2013 to November 2014 and then again from February 2015 to April 2015. She stated that she would print out patient information when processing prescriptions at the drop off counter. Respondent admitted to printing out the patient information and removing that information from the store by placing it in her pocket.
- 11. Respondent admitted that she gave the patient information to G.M., her property manager. She stated that she would either give the patient profile to G.M. when she saw her or she would provide the information to G.M. via text or e-mail. Respondent stated that G.M. threatened her and told her that she would tell her father, who was in a gang and had been convicted of attempted murder. Respondent admitted that she knew that G.M. was using the patient information to obtain credit and credit cards. She stated that G.M. used the credit cards that she created from the patient information at stores such as Home Depot, Target, Sears, Amazon, Zappos, Pottery Bard, and Justice. She stated that G.M. also used the credit cards at

Citibank and Paypal. Respondent admitted that she knew her actions were against CVS policies and procedures. She stated that she knew her act ions were wrong and apologized.

FIRST CAUSE FOR DISCIPLINE

(Dishonest Act)

12. Respondent has subjected her license to disciplinary action under section 4301, subdivision (f) of the Code in that Respondent committed an act involving dishonesty, fraud, deceit, or corruption, when she stole patient profiles from her employer and gave them to a third party to be used for identity theft purposes, as detailed in paragraphs 9 through 11, above, and which are incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(General Unprofessional Conduct)

13. Respondent has subjected her license to disciplinary action under section 4301, in that Respondent's actions in stealing patient profiles from her employer and giving them to a third party to be used for identity theft purposes constitutes general unprofessional conduct, as detailed in paragraphs 9 through 11, above, and which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Violation of Federal and State Laws)

14. Respondent has subjected her license to disciplinary action under section 4301, subdivision (o) of the Code for violating federal and state laws, including the Health Insurance Portability and Accountability Act (HIPAA) and Civil Code section 56.10 as detailed in paragraphs 9 through 11, above, and which are incorporated herein by reference.

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 Number TCH 81360, issued to Nicole Yvonne Flores;

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1	2. Ordering Nicole Yvonne Flores to pay the Board of Pharmacy the reasonable costs		
2	of the investigation and enforcement of this case, pursuant to Business and Professions Code		
3	section 125.3;		
4	Taking such other and further action as deemed necessary and proper.		
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6	DATED: 7/13/15 (Regime Heard) VIRGIN/A HEROLD		
7	Executive Officer Board of Pharmacy		
8	Department of Consumer Affairs State of California		
9	Complainant		
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(NICOLE YVONNE FLORES) ACCUSATION