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

In the Matter of the Accusation Against:
VERONICA ESTELA LOPEZ RUIZ
10394 N. Stelling Road # A
Cupertino, CA 95014
Pharmacy Technician License No. TCH 129065
Respondent.

Case No. 5706

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 10, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5706 against Veronica Estela Lopez Ruiz (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 4, 2013, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 129065 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5706 and will expire on April 30, 2018, unless renewed.

3. On or about June 24, 2016, Respondent was served by Certified and First Class Mail copies of Accusation No. 5706; a Statement to Respondent; a Notice of Defense; a Request for Discovery; and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7),

1 at Respondent's address of record which, pursuant to Business and Professions Code section
2 4100, is required to be reported and maintained with the Board. Respondent's address of record
3 was and is 10394 N. Stelling Road # A, Cupertino, CA 95014.

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

6 5. Government Code section 11506(c) states, in pertinent part:

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

12 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
13 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5706.

14 7. California Government Code section 11520(a) states, in pertinent part:

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

19 8. Pursuant to its authority under Government Code section 11520, the Board finds
20 Respondent is in default. The Board will take action without further hearing and, based on the
21 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
22 taking official notice of all the investigatory reports, exhibits and statements contained therein on
23 file at the Board's offices regarding the allegations contained in Accusation No. 5706, finds that
24 the charges and allegations in Accusation No. 5706, are separately and severally, found to be true
25 and correct by clear and convincing evidence.

26 9. Taking official notice of its own internal records, pursuant to Business and
27 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
28 and Enforcement are \$3,221.50 as of September 27, 2016.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Veronica Estela Lopez Ruiz has
3 subjected her Pharmacy Technician License No. TCH 129065 to discipline.

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

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

8 a. In violation of Business and Professions Code section(s) 4301(h), (j), and/or (o),
9 and/or Health and Safety Code section 11170, in or about May 2015 Respondent self-
10 administered, conspired to self-administer, and/or assisted or abetted self-administration of, a
11 controlled substance (**cocaine**), without a prescription, detected in an employer drug screen.

12 b. In violation of Business and Professions Code section(s) 4301(j) and/or (o) and/or
13 4059, and/or Health and Safety Code section 11170, in or about May 2015 Respondent self-
14 furnished, conspired to self-furnish, and/or assisted or abetted self-furnishing of, a controlled
15 substance (**cocaine**), without a prescription, detected in an employer drug screen.

16 c. In violation of Business and Professions Code section(s) 4301(j) and/or (o) and/or
17 4060, and/or Health and Safety Code section 11350, in or about May 2015 Respondent possessed,
18 conspired to possess, and/or assisted or abetted possession of, a controlled substance (**cocaine**),
19 without a prescription.

20 d. In violation of Business and Professions Code section 4301, by way of the conduct
21 described above, Respondent engaged in unprofessional conduct.

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ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 129065, heretofore issued to Respondent Veronica Estela Lopez Ruiz, 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 at 5:00 p.m. on December 2, 2016.

It is so ORDERED on November 2, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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DOJ Matter ID:SF2016400108

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(VERONICA ESTELA LOPEZ RUIZ)

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
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. 5706

11 **VERONICA ESTELA LOPEZ RUIZ**
12 **10394 N. Stelling Road # A**
13 **Cupertino, CA 95014**

ACCUSATION

14 **Pharmacy Technician License No. TCH 129065**

15 Respondent.

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 March 4, 2013, the Board of Pharmacy issued Pharmacy Technician
21 License Number TCH 129065 to Veronica Estela Lopez Ruiz (Respondent). The Pharmacy
22 Technician License was in full force and effect at all times relevant to the charges brought herein
23 and will expire on April 30, 2018, unless renewed.

24 JURISDICTION

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

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1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

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

6 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
7 suspension of a Board-issued license, the placement of a license on a retired status, or the
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
10 licensee or to render a decision suspending or revoking the license.

11 STATUTORY AND REGULATORY PROVISIONS

12 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
13 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
14 not be limited to, any of the following:

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

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

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

26 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
27 drug or dangerous device except upon the prescription of an authorized prescriber.

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1 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
2 controlled substance, except that furnished upon a valid prescription/drug order.

3 10. Health and Safety Code section 11170 provides that no person shall prescribe,
4 administer, or furnish a controlled substance for himself or herself.

5 11. Health and Safety Code section 11173, subdivision (a), provides that no person shall
6 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
7 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
8 or subterfuge; or (2) by the concealment of a material fact.

9 12. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
10 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
11 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

12 COST RECOVERY

13 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation of the licensing
15 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

16 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17 14. Section 4021 of the Code states:

18 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
19 11053) of Division 10 of the Health and Safety Code.”

20 15. Section 4022 of the Code states, in pertinent part:

21 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
22 except veterinary drugs that are labeled as such, and includes the following:

23 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
24 prescription,’ ‘Rx only,’ or words of similar import.

25 ...

26 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
27 prescription or furnished pursuant to Section 4006.”

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THIRD CAUSE FOR DISCIPLINE

(Possession of Controlled Substance(s))

20. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraph 17 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled substance, without a prescription.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

21. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 17 to 20 above, engaged in unprofessional conduct.

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 License Number TCH 129065, issued to Veronica Estela Lopez Ruiz (Respondent);
- 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 3. Taking such other and further action as is deemed necessary and proper.

DATED: _____

6/10/16

Virginia Herold

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

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