

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ERIN M. SUNSERI
Deputy Attorney General
4 State Bar No. 207031
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2071
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3474

12 **CRYSTAL MARSEILLES**
13 **P.O. Box 1772**
14 **Idyllwild, CA 92549**

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **48067**

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about April 14, 2003, the Board of Pharmacy issued Pharmacy Technician
24 Registration No. TCH 48067 to Crystal Marseilles (Respondent). The Pharmacy Technician
25 Registration will expire on August 31, 2010, unless renewed.

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(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.

....

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

....

(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.

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(p) Actions or conduct that would have warranted denial of a license.

7. Section 475 of the Code states:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

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(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

8. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

9. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

10. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the

1 qualifications, functions, and duties of the licensee in question, the record of conviction of the
2 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
3 and the board may inquire into the circumstances surrounding the commission of the crime in
4 order to fix the degree of discipline or to determine if the conviction is substantially related to the
5 qualifications, functions, and duties of the licensee in question.

6 As used in this section, "license" includes "certificate," "permit," "authority," and
7 "registration."

8 11. Section 4313 of the Code states:

9 In determining whether to grant an application for licensure or whether to discipline or
10 reinstate a license, the board shall give consideration to evidence of rehabilitation. However,
11 public protection shall take priority over rehabilitation and, where evidence of rehabilitation and
12 public protection are in conflict, public protection shall take precedence.

13 REGULATIONS

14 12. California Code of Regulations, title 16, section 1769(b) states:

15 When considering the suspension or revocation of a facility or personal license on the
16 ground that the licensee or the registrant has been convicted of a crime, the board in evaluating
17 the rehabilitation of such person and her present eligibility for a license will consider the
18 following:

19 (1) The nature and severity of the act(s) or offense(s).

20 (2) Total criminal record.

21 (3) Time that has elapsed since the commission of the act(s) or offense(s).

22 (4) Whether the licensee has complied with all terms of parole, probation, restitution, or
23 any other sanctions lawfully imposed against the licensee.

24 (5) Evidence, if any, of rehabilitation submitted by the licensee.

25 13. California Code of Regulations, title 16, section 1770, states:

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

9 **FACTS**

10 15. On or about May 22, 2009, in a criminal proceeding entitled *People v. Marseilles,*
11 *Crystal Marie*, in the Superior Court of the State of California, County of Ventura, Case No.
12 2009013108 MA, Respondent was convicted by her plea of guilty to violation of Code section
13 11173(a) (obtaining a controlled substance by fraud).

14 16. Respondent was sentenced to three years of probation, three days in county jail,
15 ordered not to possess any medical prescription unless issued to her by a licensed physician and
16 only in her true name, ordered to disclose to any physician her past history of addiction to
17 controlled substances prior to receiving any prescription medication, ordered to stay away from
18 Rite Aid in Moorpark, California, and payment of fines in the amount of \$220.00,

19 17. The circumstances of the crime are that on or about April 7, 2009, while licensed as a
20 pharmacy technician, Respondent was arrested on charges of violating Penal Code sections
21 182(a) (1) (conspiracy to commit a crime), 459 (commercial burglary), 530.5(a) (identity theft;
22 obtain credit with other's identification), and Business and Professions Code section 4323 (false
23 representation as authorized prescriber). The police report states that "a known suspect phoned in
24 a false prescription to Rite-Aid. The suspect was arrested when she went to Rite-Aid to illegally
25 obtain the prescription."

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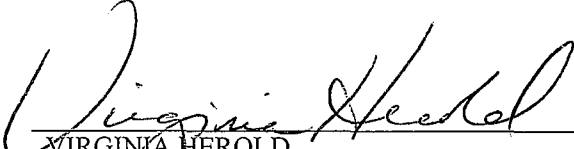
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PRAYER

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 Number TCH 48067, issued to Respondent Crystal Marseilles.
2. Ordering Respondent Crystal Marseilles to pay the Board of Pharmacy 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 deemed necessary and proper.

DATED: 5/27/10 

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

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