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8		RE THE	
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF C	ALIFORNIA	
11	In the Matter of the Accusation Against:	Case No. 3474	
12	CRYSTAL MARSEILLES		
13	P.O. Box 1772 Idyllwild, CA 92549	ACCUSATION	
14	Tuynwhu, CA 72345	ACCUSATION	
15	Pharmacy Technician Registration No. TCH 48067		
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17	Respondent.		
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19	Complainant alleges:		
20	PAR'	TIES	
21	1. Virginia Herold (Complainant) bring	s 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 Boar	d of Pharmacy issued Pharmacy Technician	
24	Registration No. TCH 48067 to Crystal Marseille	es (Respondent). The Pharmacy Technician	
25	Registration will expire on August 31, 2010, unle	ess renewed.	
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1	JURISDICTION	
2	3. This Accusation is brought before the Board of Pharmacy (Board), Department of	
3	Consumer Affairs, under the authority of the following laws. All section references are to the	
4	Business and Professions Code unless otherwise indicated.	
5	4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,	
6	surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a	
7	disciplinary action during the period within which the license may be renewed, restored, reissued	
8	or reinstated.	
9	5. Section 4300 of the Code states:	
10	(a) Every license issued may be suspended or revoked.	
11	(b) The board shall discipline the holder of any license issued by the board, whose default	
12	has been entered or whose case has been heard by the board and found guilty, by any of the	
13	following methods:	
14	(1) Suspending judgment.	
15	(2) Placing him or her upon probation.	
16	(3) Suspending his or her right to practice for a period not exceeding one year.	
17	(4) Revoking his or her license.	
18	(5) Taking any other action in relation to disciplining him or her as the board in its	
19	discretion may deem proper.	
20	(c) The board may refuse a license to any applicant guilty of unprofessional conduct.	
21	STATUTORY PROVISIONS	
22	6. Section 4301 of the Code states:	
23	The board shall take action against any holder of a license who is guilty of unprofessional	
24	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
25	Unprofessional conduct shall include, but is not limited to, any of the following:	
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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.

(1) The conviction of a crime substantially related to the qualifications, functions, and duties 6 of a licensee under this chapter....the record of conviction shall be conclusive evidence only of the 7 fact that the conviction occurred. The board may inquire into the circumstances surrounding the 8 commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not 9 involving controlled substances or dangerous drugs, to determine if the conviction is of an offense 10 substantially related to the qualifications, functions, and duties of a licensee under this chapter. A 11 12 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 13 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order 14 granting probation is made suspending the imposition of sentence, irrespective of a subsequent 15 order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of 16 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the 17 accusation, information, or indictment. 18

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20 (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 22 23 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.

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7. Section 475 of the Code states:

27 (a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of: 28

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2	(2) Conviction of a crime.	
3	(3) Commission of any act involving dishonesty, fraud or deceit with the intent	
4	to substantially benefit himself or another, or substantially injure another.	
5	(4) Commission of any act which, if done by a licentiate of the business or	
6	profession in question, would be grounds for suspension or revocation of license.	
7	(b) Notwithstanding any other provisions of this code, the provisions of this division shall	
8	govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2)	
9	of subdivision (a).	
10	(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good	
11	moral character or any similar ground relating to an applicant's character, reputation, personality,	
12	or habits.	
13	8. Section 482 of the Code states:	
14	Each board under the provisions of this code shall develop criteria to evaluate the	
15	rehabilitation of a person when:	
16	(a) Considering the denial of a license by the board under Section 480; or	
17	(b) Considering suspension or revocation of a license under Section 490.	
18	Each board shall take into account all competent evidence of rehabilitation furnished by the	
19	applicant or licensee."	
20	9. Section 490 of the Code provides, in pertinent part, that a board may suspend or	
21	revoke a license on the ground that the licensee has been convicted of a crime substantially	
22	related to the qualifications, functions, or duties of the business or profession for which the	
23	license was issued.	
24	10. Section 493 of the Code states:	
25	Notwithstanding any other provision of law, in a proceeding conducted by a board within	
26	the department pursuant to law to deny an application for a license or to suspend or revoke a	
27	license or otherwise take disciplinary action against a person who holds a license, upon the	
28	ground that the applicant or the licensee has been convicted of a crime substantially related to the	
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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	
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licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
 licensee or registrant to perform the functions authorized by his license or registration in a manner
 consistent with the public health, safety, or welfare.

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.

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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
 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,

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

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1	FIRST CAUSE FOR DISCIPLINE	
2	(May 22, 2009 Criminal Conviction for Obtaining a	
3	Controlled Substance by Fraud on April 7, 2009)	
4	18. Respondent is subject to disciplinary action under Code sections 490 and 4301(1), in	
5	that she was convicted of a crime substantially related to the duties, functions, and qualifications	
6	of a pharmacy technician, as described in paragraphs 15-17, above.	
7	SECOND CAUSE FOR DISCIPLINE	
8	(Unprofessional Conduct-Dishonest Act)	
9	19. Respondent is subject to disciplinary action under Code section 4301(f) in that she	
10	committed acts involving moral turpitude, dishonesty, deceit or corruption when she obtained a	
11	controlled substance by fraud, as described in paragraphs 15-17, above.	
12	THIRD CAUSE FOR DISCIPLINE	
13	(Unprofessional Conduct-Conduct Warranting Denial of Licensure)	
14	20. Respondent is subject to disciplinary action under Code section 4301(o) in that she	
15	violated a provision or term of this chapter or of the applicable federal and state laws and	
16	regulations governing pharmacy, including regulations established by the board or by any other	
17	state or federal regulatory agency, as described in paragraphs 15-17, above.	
18	FOURTH CAUSE FOR DISCIPLINE	
19	(Unprofessional Conduct-Conduct Warranting Denial of Licensure)	
20	21. Respondent is subject to disciplinary action under Code section 4301(p) in that she	
21	committed acts which, if she had committed before she was issued her Pharmacy Technician	
22	Registration, would have warranted the denial of her application for licensure in that she obtained	
23	a controlled substance by fraud, as described in paragraphs 15-17, above.	
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1	PRAYER	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
3	and that following the hearing, the Board of Pharmacy issue a decision:	
4	1. Revoking or suspending Pharmacy Technician Registration Number TCH 48067,	
5	issued to Respondent Crystal Marseilles.	
6	2. Ordering Respondent Crystal Marseilles to pay the Board of Pharmacy the reasonable	;
7	costs of the investigation and enforcement of this case, pursuant to Business and Professions	
8	Code section 125.3;	
9	3. Taking such other and further action as deemed necessary and proper.	
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11	DATED: 5/27/10 ligning Sector	
12	VIRGINIA HEROLD	-
13	Executive Officer Board of Pharmacy	
14	Department of Consumer Affairs State of California Complainant	
15	Comptainant	Ì
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