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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. 3495

12 **ARACELI MOJARRO**
13 **30088 Pechanga Drive**
Temecula, CA 92592

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **34970**

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about October 18, 2000, the Board of Pharmacy issued Pharmacy
23 Technician Registration Number TCH 34970 to Araceli Mojarro (Respondent). The Pharmacy
24 Technician Registration will expire on December 31, 2011, unless renewed.

25 JURISDICTION

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

1 4. Code section 118, subdivision (b), states, in pertinent part, that the expiration of
 2 a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during
 3 the period within which the license may be renewed, restored, reissued or reinstated.

4 STATUTORY PROVISIONS

5 5. Section 4022 of the Code states

6 "Dangerous drug" or "dangerous device" means any drug or device
 7 unsafe for self-use in humans or animals, and includes the following:

8 (a) Any drug that bears the legend: "Caution: federal law prohibits
 dispensing without prescription," "Rx only," or words of similar import.

9 (b) Any device that bears the statement: "Caution: federal law restricts
 10 this device to sale by or on the order of a _____," "Rx only," or words of
 similar import, the blank to be filled in with the designation of the practitioner
 licensed to use or order use of the device.

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

13 6. Section 4060 of the Code states:

14 No person shall possess any controlled substance, except that furnished to
 15 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
 16 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
 17 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
 18 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
 shall not apply to the possession of any controlled substance by a manufacturer,
 19 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
 20 physician assistant, when in stock in containers correctly labeled with the name and
 address of the supplier or producer.

21 Nothing in this section authorizes a certified nurse-midwife, a nurse
 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
 22 stock of dangerous drugs and devices.

23 7. Section 4300 of the Code states that "(a) Every license issued may be
 24 suspended or revoked."

25 8. Section 4301 of the Code states:

26 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
 27 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
 not limited to, any of the following:
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1
2 (h) The administering to oneself, of any controlled substance, or the use
3 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
4 dangerous or injurious to oneself, to a person holding a license under this chapter, or
5 to any other person or to the public, or to the extent that the use impairs the ability of
6 the person to conduct with safety to the public the practice authorized by the license.

.....
7
8 (j) The violation of any of the statutes of this state, or any other state, or
9 of the United States regulating controlled substances and dangerous drugs.

10 COST RECOVERY

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

15 DRUGS

16 10. Cocaine is a Schedule II controlled substance as designated by Health and
17 Safety Code section 11055(b)(6), and is a dangerous drug pursuant to Business & Professions
18 Code section 4022.

19 11. Marijuana is a Schedule I controlled substance as designated by Health and
20 Safety Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to Business &
21 Professions Code section 4022.

22 FIRST CAUSE FOR DISCIPLINE

23 **(Unprofessional Conduct - Possession and Use of Controlled Substances
24 on September 27, 2008)**

25 12. Grounds exist to revoke Respondent's license pursuant to Code section 4300,
26 4060, and section 4301, subdivision (h) for unprofessional conduct. The facts and circumstances
27 surrounding this cause for discipline are as follows. On September 27, 2008, Respondent's
28 residence was searched by the police pursuant to a warrant. The focus of the warrant was that
cocaine was allegedly being sold from the home. Two adults, including Respondent, and
Respondent's child were located in the house. Respondent and the other adult were found to be
in possession of cocaine and marijuana and under the influence of a controlled substance. Drugs

1 and paraphernalia to sell drugs were located in the house, the garage, and the car. Respondent
2 admitted to the police that she possessed and smoked marijuana and that she has a medical
3 marijuana card, that she uses cocaine occasionally, and that she had used cocaine earlier in the
4 week.

5 13. Respondent was arrested and charged with child endangerment (the child could
6 have accessed and ingested the drugs), possession of controlled substances (cocaine and
7 marijuana), and under the influence of a controlled substance. On November 7, 2008, in a case
8 entitled People vs. Aricelli Mojarro (Riverside County Superior Court Case No. SWF026811),
9 Respondent pled guilty to a violation of Health and Safety Code section 11350(a) (possession of
10 cocaine), a felony, but judgment was deferred pursuant to Penal Code section 1000 and
11 Respondent was ordered to enroll in a 7 month diversion program.

12 SECOND CAUSE FOR DISCIPLINE

13 **(Unprofessional Conduct – Violation of Drug Laws on September 27, 2008)**

14 Grounds exist to revoke Respondent's license pursuant to Code section 4300 and section
15 4301, subdivision (j) for unprofessional conduct in that she violated laws regulating controlled
16 substances and dangerous drugs. As detailed in paragraphs 12 and 13 above, which are hereby
17 incorporated by reference, Respondent possessed cocaine in violation of Health and Safety Code
18 section 11350(a) and admitted to administering and being under the influence of cocaine in
19 violation of Health and Safety Code section 11550.

20 PRAYER

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

23 A. Revoking or suspending Pharmacy Technician Registration Number TCH
24 34970, issued to Araceli Mojarro.

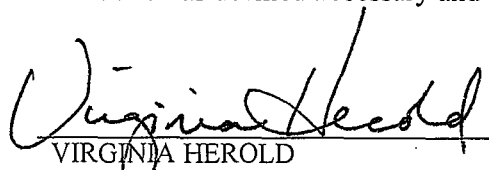
25 B. Ordering Araceli Mojarro to pay the Board of Pharmacy the reasonable costs of
26 the investigation and enforcement of this case, pursuant to Business and Professions Code section
27 125.3;

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C. Taking such other and further action as deemed necessary and proper.

DATED: 5/18/10



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

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