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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. 3541

11 **MILYNN JOY PERRO**  
12 24 Carriage Lane  
13 Scotts Valley, CA 95066

**A C C U S A T I O N**

14 **Pharmacy Technician Registration No. TCH**  
**46183**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 11, 2003, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 46183 to Milynn Joy Perro (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on July 31, 2011, unless renewed.

25 **JURISDICTION**

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

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4. Section 4300(a) of the Code states:

"Every license issued may be suspended or revoked."

5. 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.

...

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

...

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

...

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, 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

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
5 of this provision. The board may take action when the time for appeal has elapsed, or the  
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
10 indictment.

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

15 7. Section 4060 of the Code states:

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

27 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a  
28 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and

1 devices."

2 8. California Code of Regulations, title 16, section 1770, states:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license  
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
7 licensee or registrant to perform the functions authorized by his license or registration in a manner  
8 consistent with the public health, safety, or welfare."

9 9. Health and Safety Code Section 11350 (a) states:

10 "Except as otherwise provided in this division, every person who possesses (1) any  
11 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
12 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
13 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
14 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
15 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
16 licensed to practice in this state, shall be punished by imprisonment in the state prison.

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

#### 21 DRUGS INVOLVED

22 11. Heroin is a schedule I controlled substance pursuant to Health and Safety Code §  
23 11054(c)(11) and a dangerous drug pursuant to Business and Professions code § 4022.

24 12. Cocaine is a schedule II controlled substance pursuant to Health and Safety Code §  
25 11055(b)(6) and a dangerous drug pursuant to Business and Professions code § 4022.

26 13. Marijuana is a schedule I controlled substance pursuant to Health and Safety Code §  
27 11054(d)(13) and a dangerous drug pursuant to Business and Professions code § 4022.

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FACTUAL BACKGROUND

14. On or about December 6, 2006, Scott Valley Police executed a warrant at 777 Tollhouse Rd, Felton CA. Respondent lived at this property with her children (aged 1 and 4 in December 2006). Respondent was found at the property with her children. Police found a methamphetamine pipe within in arms reach of the bed where Respondent and her children were located. Police also found marijuana, heroin, and hypodermic needles located at the property. Some of the syringes contained heroin and were within the reach of children. Respondent admitted to police she uses heroin. Police also found a plugged in chainsaw within easy reach of a child and a stolen vehicle on the property.

15. April 19, 2007, in Santa Cruz County Superior Court Case No. F14421, Respondent was convicted on child abuse in violation of Penal Code § 273(a). The circumstances leading to Respondents conviction are described in paragraph 14, above.

16. On or about January 31, 2008, Respondent was arrested by Santa Cruz County Sheriff's for being under the influence of a controlled substance. Respondent was under the influence of cocaine. Respondent tested positive for cocaine and opiates. Respondent admitted to using cocaine on the day she was arrested.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Conviction)

17. Respondent is subject to disciplinary action under sections 4301(l) and 490 of the code in that Respondent was convicted of a crime that is substantially related to the duties, functions, or qualifications of a pharmacy technician. The circumstances are described in paragraphs 14-15, above.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Moral Turpitude)

18. Respondent is subject to disciplinary action under sections 4301(f) of the code in that Respondent was involved in acts of moral turpitude. The circumstances are described in paragraphs 14, above.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct-Violation of Drug Laws)

3 19. Respondent is subject to disciplinary action under section 4301(j) of the Code in that  
4 Respondent violated business and Professions Code § 4060 and Health and Safety Code §§  
5 11350, 11550(a), all are California statutes that regulate controlled substances and dangerous  
6 drugs. The circumstances are described in paragraphs 14 and 16, above.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct-Drug Use)

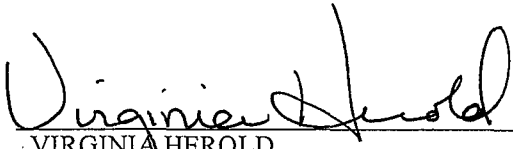
9 20. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
10 Respondent used controlled substances and dangerous drugs without a prescription. Respondent  
11 used the controlled substances and dangerous drugs to an extent that was dangerous or injurious  
12 to herself and others. The circumstances are described in paragraph 14 and 16, above.

13 PRAYER

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

- 16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 46183,  
17 issued to Milynn Joy Perro.
- 18 2. Ordering Milynn Joy Perro to pay the Board of Pharmacy the reasonable costs of the  
19 investigation and enforcement of this case, pursuant to Business and Professions Code section  
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: 5/28/10

24   
25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

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