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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. 4041

12 **CYNTHIA ALMARAZ**  
13 **1112 Spruce Street**  
14 **Corona, CA 92879**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
**47494**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 29, 2003, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 47494 to Cynthia Almaraz (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on October 31, 2012, unless 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 of the Code states:

6 ...

7 (b) The suspension, expiration, or forfeiture by operation of law of a  
8 license issued by a board in the department, or its suspension, forfeiture, or  
9 cancellation by order of the board or by order of a court of law, or its  
10 surrender without the written consent of the board, shall not, during any  
11 period in which it may be renewed, restored, reissued, or reinstated, deprive  
the board of its authority to institute or continue a disciplinary proceeding  
against the licensee upon any ground provided by law or to enter an order  
suspending or revoking the license or otherwise taking disciplinary action  
against the licensee on any such ground.

12 ...

13 5. Section 4300 of the Code states:

14 (a) Every license issued may be suspended or revoked.

15 ...

16 **STATUTORY PROVISIONS**

17 6. Section 482 of the Code states:

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

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

21 or

22 (b) Considering suspension or revocation of a license under Section  
23 490.

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

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

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

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

9. 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.

...

(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 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.

...

1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1769, states:

3 . . . .

4 (b) When considering the suspension or revocation of a facility or a  
5 personal license on the ground that the licensee or the registrant has been  
6 convicted of a crime, the board, in evaluating the rehabilitation of such  
7 person and his present eligibility for a license will consider the following  
8 criteria:

9 (1) Nature and severity of the act(s) or offense(s).

10 (2) Total criminal record.

11 (3) The time that has elapsed since commission of the act(s) or  
12 offense(s).

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

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

17 11. California Code of Regulations, title 16, section 1770, states:

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

26 **COSTS**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(January 19, 2011 Conviction for Theft of Personal Property on October 1, 2010)**

3 13. Respondent is subject to disciplinary action under section 490 and 4301, subdivision  
4 (I), of the Code in that Respondent was convicted of a crime that is substantially related to the  
5 qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows:

6 a. On or about January 19, 2011, in a criminal proceeding entitled *People of the*  
7 *State of California v. Cynthia Almaraz*, in Riverside County Superior Court, Case number  
8 RM10015194, Respondent was convicted on her plea of guilty of violating Penal Code section  
9 484, subdivision (a), petty theft, a misdemeanor. Respondent admitted to taking the personal  
10 property of another, not exceeding \$400 in value. Respondent pled guilty to petty theft while on  
11 probation for her September 2010 conviction for forgery as outlined in paragraph 15 below.

12 b. As a result of her petty theft conviction, Respondent was ordered to serve 36  
13 months summary probation, ordered to serve 50 days in the county's work release program,  
14 ordered to pay fines and restitution, and ordered to submit to a search by any peace officer of her  
15 person or property without cause.

16 c. The circumstances that led to the conviction or that on or about October 1, 2010,  
17 Respondent and friends were driving in Respondent's car. Respondent and friends decided to  
18 steal mail from residential mailboxes. Respondent drove her car into residential areas and up to a  
19 home's mailbox, Respondent's friends then opened the mailbox and stole the contents, after  
20 which Respondent drove away.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct – Dishonesty)**

23 14. Respondent is subject to disciplinary under section 4301, subdivision (f) of the Code  
24 in that on or about October 1, 2010, Respondent was dishonest when she stole the personal  
25 property of another, as outlined in paragraph 13 above.

26 **AGGRAVATING FACTORS**

27 15. In order to determine the appropriate degree of discipline to impose upon  
28 Respondent, if any, Complainant alleges that Respondent has been previously been cited by the

1 Board for a prior criminal conviction occurring in September of 2010. Respondent's criminal  
2 conviction and the actions that led to the conviction were found by the Board to be violations of  
3 Code section 4301 subdivisions (f) and (l). As a result of her violations, on November 3, 2010, a  
4 citation was issued to Respondent in which she was ordered to pay \$400 in fines. Respondent  
5 was ordered to pay the fines by December 3, 2010. Respondent failed to pay her fines, which  
6 remain outstanding. As a result of her unpaid fines, Respondent is barred from renewing her  
7 license until the fines are paid.

8 a. The circumstances of Respondent's criminal conviction are that on or about  
9 September 14, 2010, in a criminal case entitled *The People of the State of California v. Cynthia*  
10 *Almaraz*, in Riverside County Superior Court, case number RIM10010096, Respondent was  
11 convicted on her plea of guilty of violating Penal Code section 470, subdivision (d), forgery, a  
12 misdemeanor.

13 b. Respondent was sentenced to 36 months summary probation and ordered to serve  
14 15 days of work release service.

15 c. The facts that led to Respondent's conviction are that on or about June 19,  
16 2010, Respondent entered into a convenience store and attempted to cash a forged check. The  
17 check was in the amount of \$1,573. Respondent admitted to knowing that the payee name had  
18 been altered on the check, admitted to knowing the check was not intended for her and that she  
19 entered the store with the intention of cashing the forged check.

20 **PRAYER**

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

23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 47494,  
24 issued to Cynthia Almaraz;

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