

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 NICOLE R. COOK  
Deputy Attorney General  
4 State Bar No. 263607  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2143  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11  
12 In the Matter of the Accusation Against:  
13 **TANYA RENEE MENDEZ**  
14 **3302 Descanso Avenue**  
**San Marcos, CA 92078**  
15 **Pharmacy Technician Registration No. TCH**  
**80838**  
16  
17 Respondent.

Case No. 4115

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

18  
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 January 17, 2008, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 80838 to Tanya Renee Mendez (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on September 30, 2011, unless renewed.

**JURISDICTION**

1  
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, 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, subdivision (a) of the Code states in pertinent part, "every license  
10 issued may be suspended or revoked."

**STATUTORY PROVISIONS**

11  
12 6. Section 482 of the Code states:

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

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

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

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

19 7. Section 4059 of the Code provides, in pertinent part, that a person may not furnish  
20 any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
21 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
22 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,  
23 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

24 8. Section 4060 of the Code states:

25 No person shall possess any controlled substance, except that furnished to a  
26 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
27 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
28 pursuant 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 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a

1 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
2 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
3 section shall not apply to the possession of any controlled substance by a  
4 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
5 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
6 practitioner, or physician assistant, when in stock in containers correctly labeled  
7 with the name and address of the supplier or producer.

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

11 9. Section 4301 of the Code states:

12 The board shall take action against any holder of a license who is guilty of  
13 unprofessional conduct or whose license has been procured by fraud or  
14 misrepresentation or issued by mistake. Unprofessional conduct shall include, but  
15 is not limited to, any of the following:

16 . . . .

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

23 . . . .

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

26 . . . .

27 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
28 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.

. . . .

**COST RECOVERY**

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
the administrative law judge to direct a licentiate found to have committed a violation or

1 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
2 and enforcement of the case.

### 3 DRUGS

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

7 12. Soma, sold generically as carisoprodol, is a dangerous drug pursuant to Business and  
8 Professions Code section 4022.

### 9 FACTUAL ALLEGATIONS

10 13. Respondent was employed as a pharmacy courier at Tri-City Medical Center in  
11 Oceanside, California, from July 26, 2005 through December 16, 2010. As a pharmacy courier,  
12 Respondent was responsible for billing and transferring patients' medications between the  
13 pharmacy and nursing stations. Respondent typically worked the evening shift beginning at 3:30  
14 p.m. and ending at 12:00 a.m.

15 14. On or about December 13, 2010, a staff pharmacist at Tri-City Medical Center  
16 observed that while Respondent was working the evening shift, she appeared to be under the  
17 influence of drugs and/or alcohol. Specifically, Respondent was unable to walk straight, used  
18 walls and other objects to support herself, and was falling asleep repeatedly in her seat near the  
19 front door. The staff pharmacist reported Respondent's behavior to the Pharmacist-In-Charge  
20 (PIC) the following morning on December 14, 2010.

21 15. On December 14, 2010, the PIC and a representative from the Human Services  
22 Department interviewed Respondent when she arrived for her scheduled shift. Initially,  
23 Respondent stated that she took Nyquil while at work and agreed to undergo a drug screening.  
24 Respondent then admitted that she would test positive for marijuana because she smoked  
25 marijuana every other day for the two months prior to that day. Respondent admitted that on  
26 December 12, 2010, she smoked marijuana around 9:00 to 10:00 a.m., took two doses of Dayquil  
27 during the day, reported to work at 3:30 p.m., took Nyquil at 11:00 p.m. while on duty, and  
28 smoked marijuana after work around 1:00 a.m. Respondent admitted that on December 13, 2010,

1 she took two of her mother's Soma tablets around 10:00 a.m. and reported to work at 3:30 p.m.  
2 Respondent admitted that on December 14, 2010, she smoked marijuana around 7:00 a.m., took a  
3 Soma tablet around 10:00 a.m., and then reported to work at 3:30 p.m.

4 16. Respondent was given a drug screen on December 14, 2010. Respondent tested  
5 positive for Cannabiods 363 ng/ml on December 14, 2010. On December 16, 2010, Respondent  
6 resigned from her position in lieu of termination.

7 **FIRST CAUSE FOR DISCIPLINE**

8 (Unprofessional Conduct-Use of Dangerous Drug)

9 17. Respondent is subject to disciplinary action for unprofessional conduct under section  
10 4301(h) of the Code in that Respondent used dangerous drugs to the extent or in a manner as to be  
11 dangerous or injurious to herself and/or to the extent that her use impaired her ability to practice  
12 safely as set forth in paragraphs 13-16 above, incorporated herein by reference.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct-Violating Laws Regulating Controlled Substances & Dangerous Drugs)

15 18. Respondent is subject to disciplinary action for unprofessional conduct under section  
16 4301(j) of the Code in that Respondent used a controlled substance and dangerous drugs, without  
17 a valid prescription in violation of the California Uniform Controlled Substances Act (Health and  
18 Safety Code Sections 11000, et. Seq.), as evidenced by her admissions set forth in paragraphs 13-  
19 16 above, incorporated herein by reference.

20 **THIRD CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct-Violation of Chapter)

22 19. Respondent is subject to disciplinary action for unprofessional conduct under section  
23 4301(o) of the Code, in that Respondent violated the Pharmacy Act by illegally possessing a  
24 controlled substance and dangerous drugs, in violation of Code sections 4059 and 4060, as  
25 evidenced by her admissions set forth in paragraphs 13-16 above, incorporated herein by  
26 reference.

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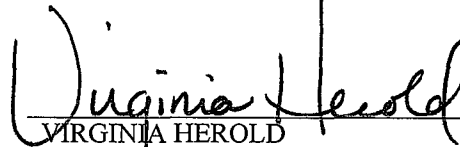
PRAYER

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 80838, issued to Tanya Renee Mendez;
2. Ordering Tanya Renee Mendez 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:

9/1/11



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

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