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

11 In the Matter of the Accusation Against:

Case No. 4436

12 **SONJA FLORES**
8740 Risinghill Court
13 Rancho Cucamonga, CA 91730

A C C U S A T I O N

[Gov. Code, § 11503.]

14 **Pharmacy Technician Registration No. TCH**
58002,

15 Respondent.
16

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, an agency within the Department of
22 Consumer Affairs.

23 2. On or about August 18, 2004, the Board issued Pharmacy Technician Registration
24 No. TCH 58002 to Sonja Flores ("Respondent"). The Pharmacy Technician Registration was in
25 full force and effect at all times relevant to the charges brought herein and will expire on
26 December 31, 2013, unless it is renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 118, subdivision (b), states that the suspension, expiration, surrender, or
5 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
6 action during the period within which the license may be renewed, restored, reissued or
7 reinstated.

8 5. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
9 revoked."

10 6. Section 4300.1 states:

11 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
12 operation of law or by order or decision of the board or a court of law, the placement of a license
13 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
14 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
15 proceeding against, the licensee or to render a decision suspending or revoking the license."

16 **STATUTORY PROVISIONS**

17 7. Section 490 states, in relevant part:

18 "(a) In addition to any other action that a board is permitted to take against a licensee, a
19 board may suspend or revoke a license on the ground that the licensee has been convicted of a
20 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
21 or profession for which the license was issued.

22 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
23 discipline a licensee for conviction of a crime that is independent of the authority granted under
24 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
25 of the business or profession for which the licensee's license was issued.

26 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
27 conviction following a plea of nolo contendere. Any action that a board is permitted to take
28 following the establishment of a conviction may be taken when the time for appeal has elapsed, or

1 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
2 made suspending the imposition of sentence, irrespective of a subsequent order under the
3 provisions of Section 1203.4 of the Penal Code."

4 8. Section 4301 states, in relevant part:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 ...

9 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
11 whether the act is a felony or misdemeanor or not.

12 ...

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

18 ...

19 "(k) The conviction of more than one misdemeanor or any felony involving the use,
20 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
21 combination of those substances.

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

28 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 . . .

12 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
13 violation of or conspiring to violate any provision or term of this chapter or of the applicable
14 federal and state laws and regulations governing pharmacy, including regulations established by
15 the board or by any other state or federal regulatory agency."

16 REGULATORY PROVISION

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

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

24 COST RECOVERY

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—Conviction of Substantially Related Crimes)**

3 11. Respondent is subject to disciplinary action under section 490 and section 4301,
4 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct in that Respondent was convicted of crimes substantially
6 related to the qualifications, functions, or duties of a registered pharmacy technician, as follows:

7 a. On or about May 18, 2012, Respondent was convicted upon a plea of guilty of one
8 misdemeanor count of driving while under the influence of alcohol (Veh. Code, § 23152, subd.
9 (a)), and one misdemeanor count of driving while under the influence of alcohol with a blood
10 alcohol content of .08 percent or higher (Veh. Code, § 23152, subd. (b)). The court sentenced
11 Respondent to 60 days in jail, placed her on probation for five years, and fined her. (*People v.*
12 *Sonja Flores* (Super. Ct. Orange County, 2012, No. 12NM05306).) The circumstances
13 surrounding the conviction are that on or about May 6, 2012, a Santa Ana California Highway
14 Patrol Officer observed Respondent driving in an erratic manner, swerving in and out of traffic
15 lanes. During the enforcement stop, the officer recognized in Respondent the objective symptoms
16 of alcohol intoxication, including alcohol-smelling breath and lack of coordination. Respondent
17 admitted to the officer that she drank two and a half Corona-brand beers. Respondent failed the
18 field sobriety tests and tested positive for alcohol intoxication at a level of 0.11 percent alcohol,
19 by weight, in the blood.

20 b. On or about April 04, 2012, Respondent was convicted upon a plea of *nolo*
21 *contendere* of one misdemeanor count of commercial burglary in the second degree (Pen. Code, §
22 459). The court sentenced Respondent to 30 days in jail, placed her on probation for three years,
23 and fined her. (*People v. Sonja Flores* (Super. Ct. San Bernardino County, 2011, No.
24 MCH1100725).) The circumstances of the conviction are that on or about May 11, 2011,
25 Respondent stole a coworker's credit card out of her purse at Anaheim Regional Medical Center.
26 Three days later, Respondent purchased \$198.67 worth of goods from four different retailers
27 using the stolen card.

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1 c. On or about February 29, 2012, Respondent was convicted upon a plea of guilty of
2 one misdemeanor count of willfully and unlawfully representing that she was a valid card holder
3 with the intent to defraud, obtain money, goods, services and anything else of value (Pen. Code, §
4 484, subd. (e)(c)). The court sentenced Respondent to 30 days in jail and placed her on probation
5 for three years. (*People v. Sonja Flores* (Super. Ct. Orange County, 2011, No. 11NM12032).)
6 The circumstances surrounding the conviction are recited in paragraph 10, subparagraph (b),
7 *supra*. Complainant realleges said paragraph.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct—Alcohol-Related Convictions)**

10 12. Respondent is subject to disciplinary action under section 490 and section 4301,
11 subdivision (k), on the grounds of unprofessional conduct in that Respondent was convicted of
12 more than one misdemeanor offense involving the use, consumption, or self-administration of an
13 alcoholic beverage, said conviction having been suffered on or about May 18, 2012. Complainant
14 realleges paragraph 11, subparagraph (a).

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct—Dangerous Use of Alcohol)**

17 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
18 the grounds of unprofessional conduct in that Respondent used alcohol to an extent or in a
19 manner as to be dangerous or injurious to herself or to others, said offense having been committed
20 on or about May 6, 2012. Complainant realleges paragraph 11, subparagraph (a).

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct—Commission of Dishonest, Fraudulent, and Deceitful Acts)**

23 14. Respondent is subject to disciplinary action under section 4301, subdivision (f), on
24 the grounds of unprofessional conduct in that Respondent committed acts involving dishonesty,
25 fraud, and deceit, said acts having been committed on or about April 4, 2012 and February 29,
26 2012. Complainant realleges paragraph 11, subparagraphs (b) and (c).

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Pharmacy Act)**

3 15. Respondent is subject to disciplinary action under section 4301, subdivision (o), on
4 the grounds of unprofessional conduct in that Respondent violated provisions and terms of the
5 Pharmacy Law and regulations adopted pursuant to it. Complainant realleges paragraphs 11
6 through 14.

7 **PRAYER**

8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board issue a decision:

- 10 1. Revoking or suspending Pharmacy Technician Registration No. TCH 58002, issued
11 to Sonja Flores;
- 12 2. Ordering Sonja Flores to pay the Board the reasonable costs of the investigation and
13 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 14 3. Taking such other and further action as deemed necessary and proper.

15
16 DATED: _____

9/6/13



17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant
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