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

12 In the Matter of the Accusation Against:

Case No. 4703

13 **EDWIN M. RICH**  
2268 San Carols Drive  
14 **Pomona, CA 91767-2656**

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

15 **Pharmacy Technician Registration**  
16 **No. TCH 4902**

17 Respondent.

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 February 18, 1993, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 4902 to Edwin M. Rich (Respondent). Respondent is also known as  
25 Edwin Monty Rich. The Pharmacy Technician Registration expired on October 31, 2012, and  
26 has not been 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 (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be  
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

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

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

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

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

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

24 8. Section 493 of the Code states:

25 Notwithstanding any other provision of law, in a proceeding conducted by a board  
26 within the department pursuant to law to deny an application for a license or to suspend  
27 or revoke a license or otherwise take disciplinary action against a person who holds a  
28 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

1 discipline or to determine if the conviction is substantially related to the qualifications,  
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority," and  
4 "registration."

5 9. Section 4301 of the Code states:

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

10 (a) Gross immorality.

11 . . . .

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

15 . . . .

16 (l) The conviction of a crime substantially related to the qualifications, functions,  
17 and duties of a licensee under this chapter. The record of conviction of a violation of  
18 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code  
19 regulating controlled substances or of a violation of the statutes of this state regulating  
20 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional  
21 conduct. In all other cases, the record of conviction shall be conclusive evidence only of  
22 the fact that the conviction occurred. The board may inquire into the circumstances  
23 surrounding the commission of the crime, in order to fix the degree of discipline or, in  
24 the case of a conviction not involving controlled substances or dangerous drugs, to  
25 determine if the conviction is of an offense substantially related to the qualifications,  
26 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a  
27 conviction following a plea of nolo contendere is deemed to be a conviction within the  
28 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.

. . . .

### REGULATORY PROVISIONS

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

. . . .

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

- 1 (1) Nature and severity of the act(s) or offense(s).
- 2 (2) Total criminal record.
- 3 (3) The time that has elapsed since commission of the act(s) or offense(s).
- 4 (4) Whether the licensee has complied with all terms of parole, probation,
- 5 restitution or any other sanctions lawfully imposed against the licensee.
- 6 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

12 **COSTS**

13 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licentiate found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
17 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
18 may be included in a stipulated settlement.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(April 18, 2013 Criminal Conviction for Continuous Sexual Abuse of a Child)**

21 13. Respondent has subjected his registration to discipline under sections 490 and 4301,  
22 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the  
23 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

24 a. On or about April 18, 2013, in a criminal proceeding entitled *People of the*  
25 *State of California v. Edwin Monty Rich*, in Los Angeles County Superior Court, case number  
26 KA096686, Respondent was convicted on his plea of no contest to violating two separate counts  
27 of Penal Code section 288.5, subdivision (a), continuous sexual abuse of a child under 14 years of  
28 age, a felony. In exchange for the plea, the court dismissed two counts of violating Penal Code

1 section 288, subdivision (c)(1), oral copulation of a person under 14, and two counts of violating  
2 Penal Code section 288, subdivision (a), lewd act upon a child.

3 b. As a result of the convictions, on or about April 18, 2013, Respondent was  
4 sentenced to serve the upper term of 16 years in state prison on the primary count (Count 1), and  
5 the lower term of six years on Count 3, to be served consecutively, for a total term of 22 years.  
6 Respondent received credit for 522 days. Respondent was required to register as a convicted sex  
7 offender.

8 c. The facts that led to the convictions are that on or about August 24, 2011, two  
9 women reported to the Pomona Police Department that between 1988 and 1998, while the two  
10 were children, they lived under the guardianship of Respondent and his wife after their mother  
11 was found unfit to care for them. Over a period of several years, beginning when they were two  
12 and four years old, Respondent began sexually assaulting them. The sexual assaults continued  
13 approximately four times per week for a period of ten years. The victims were removed from the  
14 care of Respondent and his wife in 1998, when they were 12 and 14 years old. Based on the  
15 statements made by the victims, the police department opened an investigation. One of the  
16 victims made a pretext telephone call to Respondent wherein he admitted to molesting her when  
17 she was a child.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Commission of Acts Involving Gross Immorality, Moral Turpitude, and Corruption)**

20 14. Respondent has subjected his registration to discipline under section and 4301,  
21 subdivisions (a) and (f) of the Code in that his continuous sexual abuse of two children over the  
22 course of ten years, as described in paragraph 13, above, demonstrates conduct involving gross  
23 immorality, moral turpitude, and corruption.

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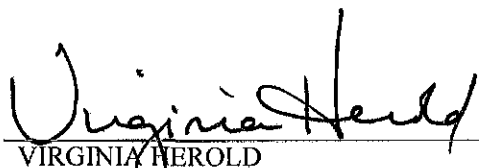
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**PRAYER**

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 4902, issued to Edwin M. Rich;
2. Ordering Edwin M. Rich 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: 10/31/13



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

SD2013705601