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

12 In the Matter of the Accusation Against:

Case No. 4735

13 **MORENA ELIZABETH VELASQUEZ**  
6952 Tyrone Ave.  
Van Nuys, CA 91405

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

14 Pharmacy Technician Registration No. TCH 75912

15 Respondent.

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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 (Board).

21 2. On or about June 13, 2007, the Board issued Pharmacy Technician Registration No.  
22 TCH 75912 to Morena Elizabeth Velasquez (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 December 31, 2014, unless renewed.

25 **JURISDICTION**

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



self-use in humans or animals, and includes the following:

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2 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

3 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

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5 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.  
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8 9. Section 4059, subdivision (a), of the Code states:

9 A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.  
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12 10. Section 4060 of the Code states:

13 No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished 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. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.  
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18 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices.  
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20 11. Health and Safety Code section 11171 provides that "No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division."  
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23 **REGULATORY PROVISIONS**

24 12. California Code of Regulations, title 16, section 1770, states:

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

**CONTROLLED SUBSTANCE/DANGEROUS DRUG**

13. Section 4021 of the Code states:

“Controlled substance” means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

14. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and including the following:

“(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without prescription,’ ‘Rx only,’ or words of similar import.

....

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

15. The following drugs are referenced herein:

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER Code Section 4022	CONTROLLED SUBSTANCE PER Health and Safety Code (HSC)	INDICATION FOR USE
Norco	Hydrocodone / Acetaminophen (APAP)	Yes	HSC 11056 (e)(4)	Pain
Glucophage	Metformin	Yes	No	Diabetes Mellitus
Cialis	Tadalafil	Yes	No	Erectile Dysfunction
Adipex	Phentermine	Yes	HSC 11057(f)(4)	Weight loss
Librium	Chlordiazepoxide	Yes	HSC 11057(d)(5)	Anxiety
Lotensin	Benazepril	Yes	No	High blood pressure
	Vicodin	Yes	HSC 11056(e)(4)	Pain
Xanax	Alprazolam	Yes	HSC 11057(d)(1)	Anxiety
Viagra	Sildenafil Citrate	Yes	No	Erectile Dysfunction
Phenergan with Codeine	Promethazine with Codeine	Yes	HSC 11058(c)(1)	Cough
	Novolin N	Yes	No	Diabetes

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**COST RECOVERY**

16. Section 125.3 of the Code states, in pertinent part, that the Board may request the 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.

**FACTUAL BACKGROUND**

17. CVS Pharmacy, located at 8425 Laurel Canyon, Sun Valley, California, hired Respondent as a pharmacy technician on May 5, 2008.

18. Sometime before April 11, 2012, personnel at CVS Pharmacy suspected Respondent of committing coupon fraud.

19. On April 11, 2012, Lucio Botello, the Regional Loss Prevention Manager for CVS Pharmacy, interviewed Respondent in regards to possible fraudulent activity.

20. Respondent admitted she would use her phone number to ring out her customers. This enabled Respondent to get the "Extra Bucks" coupons in her name. Respondent admitted to using \$50 worth of these coupons for her personal use.

21. She further admitted she was taking merchandise from the store without paying. She said she first started doing this in 2010. The last time she took an item without paying for the merchandise was on April 11, 2012. She took items such as soda, gum, drinks, sandwiches, chips, and frozen dinners. She admitted she had done this approximately three (3) times a week since 2010. She estimated her actions in taking merchandise without paying for them cost the store approximately \$733.59.

22. She also admitted she had taken prescription medication that were not prescribed to her. She stated she began taking medication in 2009. She would grab a handful of medication and put it into her pocket and leave without paying for the medications. She stated she took Norco, Phentermine, Librium, Benzepiril, Vicodin, Xanax, Viagra, Cialis, Promethazine, Metformin, and Novolin N. She said she would give the medication away to people who were in need of the

1 medication. She said the last time she took medications was on April 10, 2012 when she took  
2 Phentermine off the shelf. She said she would take medications about twice a week.

3 23. On April 12, 2012, Pharmacy Supervisor, Justin Little, and Ms. Botello conducted  
4 physical counts of the drugs Respondent admitted to stealing.

5 24. From CVS Pharmacy's last inventory on May 1, 2011 to April 12, 2012, CVS  
6 Pharmacy was missing the following drugs: approximately 1,813 dosage units of  
7 Hydrocodone/APAP 7.5 mg/750 mg; 36 dosage units of Hydrocodone/APAP 10 mg/325 mg;  
8 1,174 dosage units Alprazolam; 28 dosage units of Cialis; 2,060 dosage units of Metformin; 184  
9 dosage units of Phentermine; and 184 dosage units of Chlordizaepoxide. These totals were  
10 calculated as follows:

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12 DRUG	Count at Last Inventory 5/1/2011	Purchases 5/1/2011 to 4/12/2012	Dispensed RXs 5/1/2011 to 4/12/2012	Expected On Hand Inventory	Physical Count on 4/12/2012	Number of Missing Drugs
13 HC/APAP 14 7.5/750	400	23,000	21,148	3,002	1,189	-1,813
15 HC/APAP 10/325	1,005	17,700	18,195	510	474	-36
16 Alprazolam	115	2800	1,576	1,339	165	-1,174
17 Cialis	57	360	361	56	28	-28
18 Metformin	11,400	108,700	112,216	7,885	5,825	-2060
19 Phentermine	50	800	540	310	126	-184
20 Chlordizaepoxide	50	800	540	310	126	-184

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct – Furnishing of Controlled Substance(s))**

23 25. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)  
24 and (o), and Code section 4059, in conjunction with Health and Safety Code section 11171, in  
25 that Respondent furnished to herself or another without a valid prescription, and/or conspired to  
26 furnish, and/or assisted or abetted furnishing of, controlled substances or dangerous drugs.  
27 Complainant refers to and by this reference incorporates the allegations set forth above in  
28 paragraphs 21 through 24, inclusive, as though set forth fully.

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3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

5 26. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)  
6 and (o), on the grounds of unprofessional conduct, in that Respondent committed acts involving  
7 moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this  
8 reference incorporates the allegations set forth above in paragraphs 17 through 24, inclusive, as  
9 though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Possession of Dangerous Drugs and Controlled Substances Without a Valid Prescription)**

12 27. Respondent is subject to disciplinary action under Code section 4301, subdivision (j)  
13 and (o), and Code Section 4060, in that Respondent possessed, conspired to possess, or assisted in  
14 or abetted possession of dangerous drugs and controlled substances without a valid prescription.  
15 Complainant refers to and by this reference incorporates the allegations set forth above in  
16 paragraphs 21 through 24, inclusive, as though set forth fully.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct – Acts Would Warrant Denial of License)**

19 28. Respondent is subject to disciplinary action under Code section 4301, subdivision (p)  
20 and (o), and Code Section 4060, in that Respondent committed acts that would have warranted a  
21 denial of a license. Complainant refers to and by this reference incorporates the allegations set  
22 forth above in paragraphs 17 through 24, inclusive, as though set forth fully.

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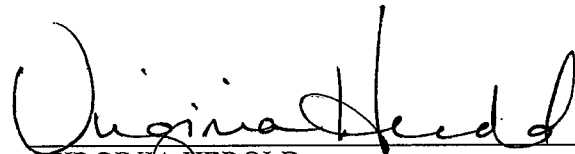
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**PRAYER**

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 75912, issued to Morena Elizabeth Velasquez;
2. Ordering Morena Elizabeth Velasquez 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: 3/27/14

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

LA2013509854  
KV(3/18/14)