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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. 4859

13 **DANIEL VAN LANDRUM**
956 W. Elberon Avenue
San Pedro, California 90731

A C C U S A T I O N

14 Original Pharmacy Technician Registration
No. TCH 83665

15 Respondent.
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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 (Board).

22 2. On or about June 2, 2008, the Board issued Original Pharmacy Technician
23 Registration No. TCH 83665 to Daniel Van Landrum (Respondent). On July 25, 2013, in the
24 matter of *The People of the State of California v. Daniel Landrum*, (Super. Ct. San Bernardino
25 County, 2013, No. FVI1202505), Respondent was prohibited by order of the superior court from
26 engaging, either directly or indirectly, in any activity for which a pharmacy technician license
27 was required during the pendency of the criminal proceedings against him until further order of
28 the court. Respondent is currently prohibited from working as a pharmacy technician, but the

1 Original Pharmacy Technician Registration was in full force and effect at all times relevant to the
2 underlying charges brought herein, and expired on October 31, 2013.

3 **JURISDICTION**

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

6 **STATUTORY PROVISIONS**

7 4. Section 490 states, in pertinent part:

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

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

16 (c) A conviction within the meaning of this section means a plea or verdict of guilty or a
17 conviction following a plea of nolo contendere. Any action that a board is permitted to take
18 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
19 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
20 made suspending the imposition of sentence, irrespective of a subsequent order under the
21 provisions of Section 1203.4 of the Penal Code. . . ."

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

24 6. Section 4300.1 states:

25 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
26 operation of law or by order or decision of the board or court of law, the placement of a license on
27 a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
28 jurisdiction to commence or proceed with any investigation of, or action or disciplinary

1 proceeding against, the licensee or to render a decision suspending or revoking the license.”

2 7. Section 4301 states, in pertinent part:

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

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

6 (a) Gross immorality.

7

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

11

12 (l) The conviction of a crime substantially related to the qualifications, functions, and
13 duties of a licensee under this chapter. . . .

14

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

19 **REGULATORY PROVISION**

20 8. California Code of Regulations, title 16, section 1770 states:

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

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1 **COST RECOVERY**

2 9. Section 125.3 provides that the Board may request the administrative law judge to
3 direct a licensee found to have committed a violation or violations of the licensing act to pay a
4 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

5 **FIRST CAUSE FOR DISCIPLINE**

6 ***(Conviction of a Substantially Related Crime)***

7 10. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
8 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
9 grounds of unprofessional conduct, in that, Respondent was convicted of a substantially related
10 crime, as follows:

11 a. On or about September 18, 2013, upon his plea of *nolo contendere*, Respondent was
12 convicted of one felony count of violating Penal Code section 311.11(a) [possession of matter
13 depicting minor engaging in sexual conduct] in the criminal proceeding entitled *The People of the*
14 *State of California v. Daniel Landrum* (Super. Ct. San Bernardino County, 2013, No.
15 FVI1202505). On October 30, 2013, the Court sentenced Respondent to serve 365 days in San
16 Bernardino County jail , to register as a sex offender under the Sex Offender Registration Act
17 pursuant to Penal Code sections 290 and 290.006, and 60 months supervised probation upon
18 release from jail, with fines and terms and conditions.

19 b. The circumstances underlying the convictions are that on or about April 25, 2012,
20 Respondent dropped a portable computer flash drive storage device inside of a Bass Pro Shop in
21 the City of Rancho Cucamonga, California. The flash drive was anonymously turned over to the
22 San Bernardino County Sheriff's Department (LASD). A sheriff's deputy opened the flash drive
23 to locate the owner of the property, and found child pornography videos saved as several files, as
24 well as personal documents in the name of Respondent. On May 15, 2012, a search warrant was
25 served for the residence where Respondent lived in a mobile home trailer at the time in the City
26 of Wrightwood. Respondent's mother lived in another mobile home trailer at the same address.
27 LASD seized computers from both mobile homes during the execution of the search warrant.
28 Computer files containing child pornography videos were found on a laptop belonging to

1 Respondent. The pornography files were copied from the laptop by Respondent onto the flash
2 drive on, before, and after other personal document files created by Respondent.

3 **SECOND CAUSE FOR DISCIPLINE**

4 *(Gross Immorality)*

5 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (a), on the grounds of unprofessional conduct, in that, Respondent committed acts
7 constituting gross immorality by possessing matter depicting minors engaging in sexual conduct.
8 Complainant refers to, and by this reference incorporates, the allegations set forth above in
9 paragraph 10, subparagraphs (a) and (b), inclusive, as though fully set forth herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 *(Act(s) Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)*

12 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (f), on the grounds of unprofessional conduct, in that, Respondent committed acts
14 involving moral turpitude or corruption by possessing matter depicting minors engaging in sexual
15 conduct. Complainant refers to, and by this reference incorporates, the allegations set forth above
16 in paragraph 10, subparagraphs (a) and (b), as though fully set forth herein.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 *(Unprofessional Conduct/Violation of Licensing Chapter)*

19 13. Respondent is subject to disciplinary action under section 4301, subdivision (o), on
20 the grounds of unprofessional conduct, in that, Respondent was found to be in possession of
21 matter constituting child pornography, and has been ordered by a superior court judge of the State
22 of California to register as a sex offender under the Sex Offender Registration Act, pursuant to
23 Penal Code sections 290 and 290.006. Complainant refers to, and by reference incorporates, the
24 allegations set forth in paragraph 10, subparagraphs (a) and (b), as though fully set forth herein.

25 **PRAYER**

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

- 28 1. Revoking or suspending Original Pharmacy Technician Registration No. TCH 83665

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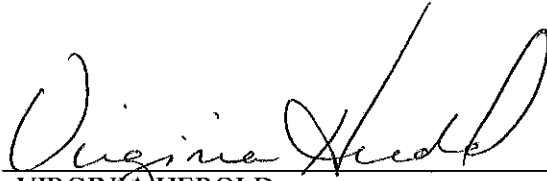
issued to Daniel Van Landrum;

2. Ordering Daniel Van Landrum to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED:

10/17/14



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