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

11 In the Matter of the Accusation Against:

Case No. 4933

12 **YOLANDA MELERO VALDEZ**  
13 7345 Elmhurst Pl.  
Goleta, CA 93117

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

14 Pharmacy Technician Registration  
15 No. TCH 23205

16 Respondent.

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, Department of Consumer Affairs.

22 2. On or about July 14, 1997, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 23205 to Yolanda Melero Valdez (Respondent). The  
24 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
25 brought herein and will expire on February 28, 2015, unless renewed.

26 **JURISDICTION**

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

1 STATUTORY PROVISIONS

2 4. Section 490 states, in pertinent part:

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

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

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

17 5. Section 4300 provides in pertinent part, that every license issued by the Boards is  
18 subject to discipline, including suspension or revocation.

19 6. Section 4300.1 states:

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

25 7. Section 4301 states, in pertinent part:

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

1 . . . .

2 "(g) Knowingly making or signing any certificate or other document that falsely  
3 represents the existence or nonexistence of a state of facts.

4 . . . .

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

10 . . . .

11 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
12 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
14 substances or of a violation of the statutes of this state regulating controlled substances or  
15 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
16 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
17 The board may inquire into the circumstances surrounding the commission of the crime, in order  
18 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
19 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
20 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
21 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
22 of this provision. The board may take action when the time for appeal has elapsed, or the  
23 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
24 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
25 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
26 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
27 indictment.

28 . . . .



1 placed her on three years probation, with terms and conditions.

2 b. The circumstances surrounding the conviction are that on or about December 6, 2012,  
3 Respondent was driving a vehicle that collided with a parked vehicle. The officer observed  
4 Respondent to have red, watery eyes, an odor of alcohol in her breath, and slurred speech. She  
5 admitted to consuming two cups of wine before driving. The Respondent submitted to a Alcohol  
6 Screening Test that resulted in a breath alcohol content level of 0.28% and .29%.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Dangerous Use of Alcohol)**

9 11. Respondent is subject to disciplinary action under sections 4300 and 4301,  
10 subdivision (h), on the grounds of unprofessional conduct, in that on or about December 6, 2012,  
11 Respondent dangerously used alcoholic beverages when she drove while under the influence.  
12 Complainant refers to and by this reference incorporates the allegations set forth above in  
13 paragraphs 10, subparagraph (b), as though set forth fully.

14 **THIRD CAUSE FOR DENIAL OF APPLICATION**

15 **(Knowingly Made a False Statement of Fact)**

16 12. Respondent is subject to disciplinary action under sections 4301, subdivision (g), in  
17 that on or about February 15, 2013, Respondent knowingly made a false statement of fact by  
18 failing to disclose her conviction, on her renewal application for licensure. In addition,  
19 Respondent signed under penalty of perjury, under the laws of the State of California, that the  
20 forgoing was true and correct, on her renewal application for licensure. Complainant refers to,  
21 and by this reference incorporates, the allegations set forth in paragraph 10, subparagraph (a), as  
22 though set forth fully.

23 **FOURTH CAUSE FOR DISCIPLINE**

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

25 13. Respondent is subject to disciplinary action under section 4301, (o), in that  
26 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing  
27 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above  
28 in paragraphs 10-12, inclusive, as though set forth fully.

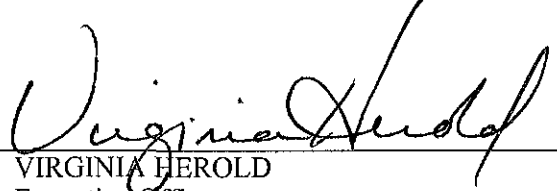
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**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 23205, issued to Respondent;
2. Ordering Respondent 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: 5/17/14



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

LA2013510423