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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4935

11 **MIKA RENEE SOLIZ**
12 30532 Laramie Ave.
13 Redlands, CA 92374

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 24839

Respondent.

16
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.

21 2. On or about January 15, 1998, the Board of Pharmacy (Boad) issued Pharmacy
22 Technician Registration No. TCH 24839 to Mika Renee Soliz (Respondent). The Pharmacy
23 Technician Registration expired on May 31, 2013, and has not been renewed.

24 **JURISDICTION**

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

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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 492 states:

18 "Notwithstanding any other provision of law, successful completion of any diversion
19 program under the Penal Code, or successful completion of an alcohol and drug problem
20 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
21 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
22 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
23 division, from taking disciplinary action against a licensee or from denying a license for
24 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
25 record pertaining to an arrest.

26 "This section shall not be construed to apply to any drug diversion program operated by any
27 agency established under Division 2 (commencing with Section 500) of this code, or any initiative
28 act referred to in that division."

1 6. Section 4060 states:

2 "No person shall possess any controlled substance, except that furnished to a person upon
3 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
4 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
5 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
6 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
7 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
8 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
9 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
10 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
11 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
12 labeled with the name and address of the supplier or producer.

13 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
14 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
15 devices."

16 7. Section 4300 provides, in pertinent part, that every license issued by the Board is
17 subject to discipline, including suspension or revocation.

18 8. Section 4300.1 states:

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

24 9. Section 4301 states, in pertinent part:

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

28

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

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.

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11 (j) The violation of any of the statutes of this state, or any other state, or of the United
12 States regulating controlled substances and dangerous drugs.

13

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

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
2 indictment.

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

8 **REGULATORY PROVISIONS**

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

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

16 **COST RECOVERY**

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

23 12. **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

24 a. "Hydrocodone/APAP 10-325" is a Schedule III controlled substance as designated in
25 Health and Safety Code section 11056, subdivision (e)(2) and is categorized as a dangerous drug
26 pursuant to section 4022.

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1 booking procedure Respondent was asked if she had any other pills in her possession. Respondent
2 handed the officer a prescription bottle from her purse which read Methocarbamol 500mg with
3 her name on it, that contained 19 tablets of Hydrocodone/APAP 10-325 that she had taken from
4 the pharmacy on a different day. In addition, Respondent provided another bottle that read
5 Ondansetron HCL 4mg, which contained Lorazepam pills. Respondent admitted to stealing
6 medication from the pharmacy since July, 2012.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Acts Involving Moral turpitude, Dishonesty, Fraud, or Deceit)**

9 14. Respondent is subject to disciplinary action under section 4300, and 4301,
10 subdivision (f), in that on or about December 21, 2012, Respondent committed acts involving
11 moral turpitude, dishonesty, fraud, or deceit with the intent to substantially benefit herself, or
12 substantially injure another. Complainant refers to, and by reference incorporates, the allegations
13 set forth above in paragraph 13, subparagraph (b), as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Illegal Possession of a Controlled Substance)**

16 15. Respondent is subject to disciplinary action under section 4300 and 4301, subdivision
17 (j) for violating section 4060, as follows:

18 a. On or about December 21, 2012, Respondent was found to be in illegal possession of
19 a controlled substance. Complainant refers to, and by this reference incorporates, the allegations
20 set forth above in paragraph 13, subparagraph (b), as though set forth fully.

21 b. Subsequently, on or about May 29, 2013, after pleading guilty, the Court placed
22 Respondent on 36 months Deferred Entry of Judgment for violating Health and Safety Code
23 section 11350, subdivision (a) [possession of a controlled substance] in the criminal proceeding
24 entitled *The People of the State of California v. Mika Renee Soliz* (Super. Ct. San Bernardino
25 County, 2013, No. FVA1300380).

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FOURTH CAUSE FOR DISCIPLINE

(Use/Under the Influence of Controlled Substances)

16. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that on or about December 21, 2011, Respondent by her own admission used and/or was under the influence of a controlled substance when she took five Hydrocodone pills from her place of employment and immediately consumed them. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 13, subparagraph (b), as though set forth fully.

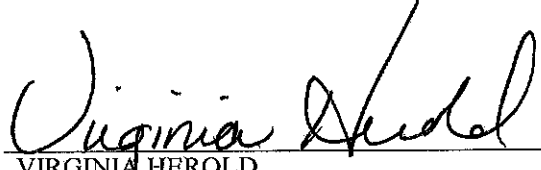
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 24839, issued to Mika Renee Soliz;
2. Ordering Mika Renee Soliz 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: _____

9/20/14



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

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