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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. 5909

12 **LESLY ISABEL MARROQUIN**  
13 4944 W. 104th Street  
Inglewood, CA 90304

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

14 **Pharmacy Technician Registration No.**  
15 **TCH 150102**

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 August 7, 2015, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 150102 to Lesly Isabel Marroquin (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on March 31, 2017, unless 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 STATUTORY PROVISIONS

6 4. Section 477 of the Code states, in part: "As used in this division: . . . (b) 'License'  
7 includes certificate, registration or other means to engage in a business or profession regulated by  
8 this code."

9 5. Section 4022 of the Code states:

10 "Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in  
11 humans or animals, and includes the following:

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

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

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

19 6. Section 4060 of the Code states:

20 "A person shall not possess any controlled substance, except that furnished to a person upon  
21 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
22 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
23 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
24 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
25 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the  
26 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics  
27 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,  
28 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock

1 in containers correctly labeled with the name and address of the supplier or producer.

2 "This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician  
3 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

4 7. Section 4300 of the Code states, in part:

5 "(a) Every license issued may be suspended or revoked.

6 "(b) The board shall discipline the holder of any license issued by the board, whose  
7 default has been entered or whose case has been heard by the board and found guilty, by any of  
8 the following methods:

9 "(1) Suspending judgment.

10 "(2) Placing him or her upon probation.

11 "(3) Suspending his or her right to practice for a period not exceeding one year.

12 "(4) Revoking his or her license.

13 "(5) Taking any other action in relation to disciplining him or her as the board in its  
14 discretion may deem proper.

15 . . . .

16 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5  
17 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
18 shall have all the powers granted therein. The action shall be final, except that the propriety of  
19 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
20 Civil Procedure."

21 8. Section 4300.1 of the Code states:

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

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9. Section 4301 of the Code states, in part:

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

....

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

....

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

....

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

1 indictment. . . .”

2 **REGULATORY PROVISIONS**

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

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

10 **CONTROLLED SUBSTANCE / DANGEROUS DRUGS**

11 11. Hydrocodone Bitartrate and Acetaminophen referred to as hydrocodone/apap, with  
12 trade names of Lortab, Norco and Vicodin, is a Schedule III controlled substance pursuant to  
13 Health and Safety Code section 11056(e)(4), and is categorized as a dangerous drug pursuant to  
14 Code section 4022. Hydrocodone is used for moderate to severe pain. As of October 6, 2014,  
15 hydrocodone/apap has been rescheduled to a Schedule II controlled substance.

16 12. Marijuana is a Schedule I controlled substance as designated by Health and Safety  
17 Code section 11054, subdivisions (a) and (d)(13).

18 **COST RECOVERY**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of a Substantially Related Crimes)

3 14. Respondent Lesly Isabel Marroquin is subject to disciplinary action under Code  
4 sections 4300 and 4301, subdivisions (f) and (l), in conjunction with California Code of  
5 Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent  
6 committed a substantially related crime, as follows:

7 a. On or about April 11, 2016, after pleading nolo contendere, Respondent was  
8 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [Petty  
9 Theft] in the criminal proceeding entitled *The People of the State of California v. Lesly Isabel*  
10 *Marroquin* (Super. Ct. L.A. County, 2016, No. 6TR01019). The Court sentenced Respondent to  
11 36-months summary probation with terms and conditions, including 2 days in jail. Respondent  
12 was also ordered to pay \$1,396.00 in restitution and fees and was further ordered to stay away  
13 from all Vons supermarkets.

14 b. The circumstances underlying the conviction are that on or about February 5, 2016,  
15 while in a grocery store, Respondent concealed merchandise in her purse worth \$163.36 and  
16 proceeded to exit the store without paying for the concealed items.

17 c. On or about December 4, 2015, after pleading guilty to one count of violating  
18 Business and Professions Code section 4060 [Possession of a Controlled Substance without a  
19 Prescription], a misdemeanor, Respondent was granted a deferred entry of judgment for a period  
20 of 18 months, with terms and conditions, in the criminal proceeding entitled *The People of the*  
21 *State of California v. Lesly Isabel Marroquin* (Super. Ct. L.A. County, 2015, No. 5IG04994. On  
22 May 9, 2016, due to the Respondent's failure to appear in court for a mandatory progress report  
23 hearing, the existing deferred entry of judgment was terminated by the Court and the criminal  
24 proceedings were reinstated as to count one (1) and Respondent was convicted of violating  
25 Business and Professions Code section 4060.

26 d. The circumstances underlying the conviction are that on or about August 31, 2015,  
27 during a routine patrol stop, Respondent was found to be carrying an unlabeled medicine bottle  
28 containing a large amount of Vicodin without a valid prescription. Respondent was later also

1 found to have marijuana in her purse.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Unlawful Possession of Controlled Substances/Dangerous Drugs)**

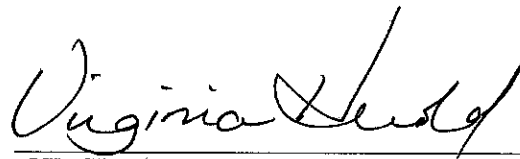
4 15. Respondent is subject to disciplinary action under Code sections 4300 and 4301,  
5 subdivisions (j) and/or (o), on the grounds of unprofessional conduct, for violating Code sections  
6 4059 and 4060, in that on or about August 31, 2015, Respondent admitted to possessing a large  
7 amount of Vicodin on her person without a valid prescription. Respondent also admitted to  
8 having marijuana in her purse. Complainant refers to and by this reference incorporates the  
9 allegations set forth above in paragraph 14, subparagraphs (c) and (d), inclusive, as though set  
10 forth fully.

11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 150102,  
15 issued to Lesly Isabel Marroquin;
- 16 2. Ordering Lesly Isabel Marroquin to pay the Board of Pharmacy the reasonable costs  
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
18 section 125.3; and
- 19 3. Taking such other and further action as deemed necessary and proper.

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21  
22 DATED: 3/8/17



23 VIRGINIA HEROLD  
24 Executive Officer  
25 Board of Pharmacy  
26 Department of Consumer Affairs  
27 State of California  
28 *Complainant*

DOJ Matter ID: LA2016602412  
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