

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3576

PATRICIA ESTELLA ACOSTA
15811 Casimir Avenue
Gardena, CA 90249

Pharmacy Technician Registration No. TCH 4497

Respondent.

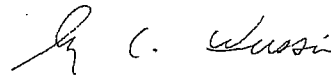
DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 19, 2011.

It is so ORDERED September 19, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 KIMBERLEY J. BAKER-GUILLEMET
Deputy Attorney General
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300 So. Spring Street, Suite 1702
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6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:	Case No. 3576
11	
12 PATRICIA ESTELLA ACOSTA	OAH No. L-2010090987
13 15811 Casimir Avenue	
14 Gardena, CA 90249	STIPULATED SURRENDER OF
15 Pharmacy Technician Registration No. TCH	LICENSE AND ORDER
16 4497	
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Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:
19

20 PARTIES

- 21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Kimberley J. Baker-Guillemet, Deputy
24 Attorney General.
- 25 2. Patricia Estella Acosta (Respondent) is represented in this proceeding by attorney
26 Shawna S. Nazari, Esq., whose address is:
27 15303 Ventura Blvd, 9th Floor
28 Sherman Oaks, CA 91403.

1 3. On or about February 8, 1993, the Board of Pharmacy issued Pharmacy Technician
2 Registration No. TCH 4497 to Patricia Estella Acosta (Respondent). The Pharmacy Technician
3 Registration was in full force and effect at all times relevant to the charges brought in Accusation
4 No. 3576 and will expire on April 30, 2012, unless renewed.

5 JURISDICTION

6 4. Accusation No. 3576 was filed before the Board of Pharmacy (Board), Department of
7 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
8 statutorily required documents were properly served on Respondent on July 1, 2010. Respondent
9 timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3576 is
10 attached as Exhibit A and incorporated by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 3576. Respondent also has carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
15 Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
18 her own expense; the right to confront and cross-examine the witnesses against her; the right to
19 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
20 compel the attendance of witnesses and the production of documents; the right to reconsideration
21 and court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 8. Respondent understands that the charges and allegations in Accusation No. 3576, if
27 proven at a hearing, constitute cause for imposing discipline upon her Pharmacy Technician
28 Registration.

1 9. For the purpose of resolving the Accusation without the expense and uncertainty of
2 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
3 basis for the charges in the Accusation and that those charges constitute cause for discipline.
4 Respondent hereby gives up her right to contest that cause for discipline exists based on those
5 charges.

6 10. Respondent understands that by signing this stipulation she enables the Board to issue
7 an order accepting the surrender of her Pharmacy Technician Registration without further
8 process.

9 CONTINGENCY

10 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
11 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
12 communicate directly with the Board regarding this stipulation and surrender, without notice to or
13 participation by Respondent or her counsel. By signing the stipulation, Respondent understands
14 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the
15 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
16 Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or
17 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
18 and the Board shall not be disqualified from further action by having considered this matter.

19 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of
20 License and Order, including facsimile signatures thereto, shall have the same force and effect as
21 the originals.

22 13. This Stipulated Surrender of License and Order is intended by the parties to be an
23 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
24 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
25 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
26 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
27 executed by an authorized representative of each of the parties.
28

1 14. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following Order:

3 **ORDER**

4 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 4497, issued
5 to Respondent Patricia Estella Acosta, is surrendered and accepted by the Board of Pharmacy.

6 15. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
7 of the surrendered license by the Board shall constitute the imposition of discipline against
8 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
9 Respondent's license history with the Board.

10 16. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
11 as of the effective date of the Board's Decision and Order.

12 17. Respondent shall cause to be delivered to the Board her pocket license and, if one was
13 issued, her wall certificate within ten (10) days of the effective date of this decision.

14 18. Respondent understands and agrees that if he or she ever files an application for
15 licensure or a petition for reinstatement in the State of California, the board shall treat it as a new
16 application for licensure.

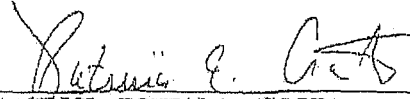
17 Respondent may not apply for any license, permit, or registration from the board for three
18 (3) years from the effective date of this decision. Respondent stipulates that should he or she
19 apply for any license from the board on or after the effective date of this decision, all allegations
20 set forth in Accusation No. 3576 shall be deemed to be true, correct and admitted by respondent
21 when the board determines whether to grant or deny the application. Respondent shall satisfy all
22 requirements applicable to that license as of the date the application is submitted to the board,
23 including, but not limited to certification by a nationally recognized body prior to the issuance of
24 a new license. Respondent is required to report this surrender as disciplinary action.

25 19. Respondent stipulates that should she apply for any license from the board on or after
26 the effective date of this decision, investigation and prosecution costs in the amount of five
27 thousand dollars and no cents (\$5,000.00) shall be paid to the board prior to issuance of the
28 license.


1 20. If Respondent should ever apply or reapply for a new license or certification, or
 2 petition for reinstatement of a license, by any other health care licensing agency in the State of
 3 California, all of the charges and allegations contained in Accusation, No. 3576 shall be deemed
 4 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
 5 other proceeding seeking to deny or restrict licensure.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Surrender of License and Order and have fully
 8 discussed it with my attorney, Shawna S. Nazari, Esq. I understand the stipulation and the effect
 9 it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of
 10 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
 11 Decision and Order of the Board of Pharmacy.

12
 13 DATED: 7-6-11 
 14 PATRICIA ESTELLA ACOSTA
 Respondent

15 I have read and fully discussed with Respondent Patricia Estella Acosta the terms and
 16 conditions and other matters contained in this Stipulated Surrender of License and Order. I
 17 approve its form and content.

18 DATED: 7-6-11 
 19 SHAWNA S. NAZARI, ESQ.
 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: July 6, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


KIMBERLEY J. BAKER-GULLEMET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3576

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 BRIAN G. WALSH
Deputy Attorney General
4 State Bar No. 207621
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2535
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
PATRICIA ESTELLA ACOSTA
12 15811 Casmir Avenue
Gardena, CA 90249
13 Pharmacy Technician Registration No. TCH 4497
14 Respondent.

Case No. 3576

A C C U S A T I O N

15
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 February 8, 1993, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration Number TCH 4497 to Patricia Estella Acosta (Respondent). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on April 30, 2012, 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 unless otherwise indicated.

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STATUTORY PROVISIONS

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2 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender,
3 and/or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
4 disciplinary action during the period within which the license may be renewed, restored, reissued
5 or reinstated.

6 5. Section 480 states, in pertinent part:

7 “(a) A board may deny a license regulated by this code on the grounds that the
8 applicant has one of the following:

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

15 (2) Done any act involving dishonesty, fraud, or deceit with the intent to
16 substantially benefit himself or herself or another, or substantially injure another.”

17 6. Section 4022 states:

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

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

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

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

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1 7. Section 4051, subdivision (a), states:

2 "(a) Except as otherwise provided in this chapter, it is unlawful for any person to
3 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
4 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
5 is a pharmacist under this chapter."

6 8. Section 4059, subdivision (a) states, in pertinent part:

7 "[A] person may not furnish any dangerous drug except upon the prescription of a
8 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor."

9 9. Section 4060 states, in pertinent part:

10 "No person shall possess any controlled substance, except that furnished to a person upon
11 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or [other authorized
12 health care professional]."

13 10. Section 4300, subdivision (a), states that "[e] very license issued may be suspended or
14 revoked."

15 11. Section 4301 states:

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

19

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

23

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

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"(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 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 indictment.

....

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

"(p) Actions or conduct that would have warranted denial of a license."

CONTROLLED SUBSTANCES / DANGEROUS DRUGS
PROVISIONS

12. "Hydrocodone is a Schedule II controlled narcotic substance pursuant to Health and Safety Code section 11055, subdivision (b)(J), and a dangerous drug pursuant to Business and Professions Code section 4022. Preparations containing hydrocodone in combination with other non-narcotic medicinal ingredients are in Schedule III.

14. "Viagra" is a brand name of sildenafil citrate, a treatment for erectile dysfunction. It is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

COST RECOVERY

13. Section 125.3 provides, in pertinent part, that the Board may request that the administrative law judge direct a licentiate found to have committed a violation or violations of

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially-Related Crime)**

5 14. Respondent is subject to disciplinary action under section 4301, subdivision (l), as a
6 result of her conviction of a crime that is substantially related to the qualifications, functions, and
7 duties of a registered pharmacy technician. On or about August 4, 2009, after pleading nolo
8 contendere, Respondent was convicted of one felony count of violating Penal Code section 487,
9 subdivision (a) [grand theft], in the criminal proceeding entitled *The People of the State of*
10 *California v. Patricia Estella Acosta* (Super. Ct. Los Angeles County, 2009, No. YA075113).
11 Respondent was sentenced to 30 days in jail and placed on three years probation. She was also
12 ordered to pay \$2,679.60 in victim restitution. The underlying factual circumstances revolve
13 around Respondent's arrest by officers of the Gardena Police Department, which occurred on or
14 about April 1, 2009, and followed an eight-month investigation conducted by the Loss Prevention
15 Manager of the CVS Pharmacy in Gardena, California, where Respondent worked as a pharmacy
16 technician. As part of this investigation, the Loss Prevention Manager arranged for video
17 surveillance, which revealed Respondent removing hydrocodone pills on five separate days when
18 there were no hydrocodone sales. Respondent admitted taking 40 bottles of hydrocodone and one
19 bottle of Viagra, and further admitted selling those controlled substances to an unidentified third
20 party. The purchase value of the stolen controlled substances was \$2,679.60.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Violating State Laws Regulating Controlled Substances)**

23 15. Respondent is subject to disciplinary action under section 4301, subdivision (j), for
24 violating section 4051, subdivision (a), which provides that only licensed pharmacists may
25 dispense or furnish dangerous drugs. Complainant refers to and incorporates all the allegations
26 contained in paragraph 14, as though set forth fully.

27 16. Respondent is subject to disciplinary action under section 4301, subdivision (j), for
28 violating section 4059, subdivision (a), which provides that it is unlawful to dispense or furnish

1 dangerous drugs without a valid prescription. Complainant refers to and incorporates all the
2 allegations contained in paragraph 14, as though set forth fully.

3 17. Respondent is subject to disciplinary action under section 4301, subdivision (j), for
4 violating section 4060, which provides that it is unlawful to possess any controlled substance
5 without a valid prescription.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Dangerous Use of a Controlled Substance)**

8 18. Respondent is subject to disciplinary action under section 4301, subdivision (h), for
9 using the controlled substance hydrocodone in a manner that was dangerous to herself and others.
10 In a signed statement that Respondent provided to the Board on or about September 15, 2009,
11 Respondent informed the Board, under penalty of perjury, that she was addicted to hydrocodone,
12 and was stealing approximately 30 10-mg. tablets for self-use every few weeks.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Dishonesty and/or Fraudulent Conduct)**

15 19. Respondent is subject to disciplinary action under section 4301, subdivision (f), for
16 engaging in dishonesty and/or fraudulent conduct.

17 a. Respondent engaged in repeated acts of dishonesty and fraudulent conduct when she
18 stole 40 bottles of hydrocodone and one bottle of Viagra, together valued at \$2,679.60, over a
19 five-month period, from the CVS pharmacy where was employed.

20 b. Respondent engaged in further dishonesty when she gave two completely different
21 versions of the underlying facts, which contradict each other and, therefore, cannot possibly both
22 be true. Respondent informed the CVS Pharmacy Loss Prevention Manager and the Gardena
23 Police Department that she was selling the stolen dangerous drugs to finance the defense of her
24 incarcerated son, but she later informed the Board under penalty of perjury that she was taking the
25 pills only for herself to feed her addiction to hydrocodone.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Committing Acts That Would Warrant the Denial of a License)

3 20. Respondent is subject to disciplinary action under section 4301, subdivision (p), in
4 conjunction with section 480, subdivision (a)(1), in that Respondent's felony grand theft
5 conviction would warrant the denial of an applicant's license. Complainant refers to and
6 incorporates all the allegations contained in paragraph 14, as though set forth fully.

7 21. Respondent is subject to disciplinary action under section 4301, subdivision (p), in
8 conjunction with section 480, subdivision (a)(2), in that Respondent's dishonesty and/or
9 fraudulent acts would warrant the denial of an applicant's license. Complainant refers to and
10 incorporates all the allegations contained in paragraph 19, including its subparagraphs, as though
11 set forth fully.

12 SIXTH CAUSE FOR DISCIPLINE

13 (Violating Provisions of the Business and Professions Code)

14 22. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
15 that Respondent has violated numerous provisions of the Business and Professions Code.
16 Complainant refers to and incorporates all the allegations contained in paragraphs 14 through 21,
17 inclusive, as though set forth fully.

18 PRAYER

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

21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 4497,
22 issued to Respondent;

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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: 6/9/10



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

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