

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

In the Matter of the Accusation Against:

DULCE JACQUELINE YEPIZ

752 Mission Grove Place, #503

Escondido, CA 92025

Pharmacy Technician Registration No.

TCH 56601

Respondent.

Case No. 4452

OAH No. 2013110882

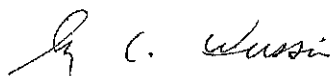
DECISION AND ORDER

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 November 19, 2014.

It is so ORDERED on November 14, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 SHERRY L. LEDAKIS
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Attorneys for Complainant

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13 **DULCE JACQUELINE YEPIZ**
752 Mission Grove Place, #503
14 Escondido, CA 92025

OAH No. 2013110882

15 Pharmacy Technician Registration
No. TCH 56601

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16
17 Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

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 Sherry L. Ledakis, Deputy Attorney
24 General.

25 2. Dulce Jacqueline Yepiz (Respondent) is represented in this proceeding by attorney
26 Daniel M. Smith, whose address is Daniel M. Smith, Esq., San Diego Defenders APC, 585 Third
27 Avenue, Chula Vista, CA 91910.

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1 3. On or about May 28, 2004, the Board of Pharmacy issued Pharmacy Technician
2 Registration No. TCH 56601 to Dulce Jacqueline Yepiz (Respondent). The Pharmacy Technician
3 Registration was in full force and effect at all times relevant to the charges brought in Accusation
4 No. 4452 and will expire on September 30, 2015, unless renewed.

5 JURISDICTION

6 4. Accusation No. 4452 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 22, 2013.
9 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
10 No. 4452 is 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. 4452. 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 confront and cross-examine
18 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
19 to the issuance of subpoenas to compel the attendance of witnesses and the production of
20 documents; the right to reconsideration and court review of an adverse decision; and all other
21 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 4452, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
27 Registration No. TCH 56601 for the Board's formal acceptance.

28 ///

1 9. Respondent understands that by signing this stipulation she enables the Board to issue
2 an order accepting the surrender of her Pharmacy Technician Registration without further
3 process.

4 CONTINGENCY

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

14 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
16 thereto, shall have the same force and effect as the originals.

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

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

25 ORDER

26 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 56601, issued
27 to Respondent Dulce Jacqueline Yepiz, is surrendered and said surrender is accepted by the Board
28 of Pharmacy.

1 1. Respondent surrenders pharmacy technician license number TCH 56601, as of the
2 effective date of this decision. Respondent shall relinquish her pharmacy technician license to the
3 board within ten (10) days of the effective date of this decision.

4 2. The surrender of respondent's license and the acceptance of the surrendered license by
5 the board shall constitute the imposition of discipline against respondent. This decision
6 constitutes a record of discipline and shall become a part of respondent's license history with the
7 board.

8 3. Respondent understands and agrees that if she ever files an application for licensure
9 or a petition for reinstatement in the State of California, the board shall treat it as a new
10 application for licensure. Respondent may not apply for any license, permit, or registration from
11 the board for three (3) years from the effective date of this decision. Respondent stipulates that
12 should she apply for any license from the board on or after the effective date of this decision, all
13 allegations set forth in the accusation shall be deemed to be true, correct and admitted by
14 respondent when the board determines whether to grant or deny the application. Respondent shall
15 satisfy all requirements applicable to that license as of the date the application is submitted to the
16 board, including, but not limited to certification by a nationally recognized body prior to the
17 issuance of a new license. Respondent is required to report this surrender as disciplinary action.

18 4. Respondent stipulates that should she apply for any license from the board on or after
19 the effective date of this decision, investigation and prosecution costs in the amount of \$8,517.50,
20 shall be paid to the board prior to issuance of the license.

21 ACCEPTANCE

22 I have carefully read the above Stipulated Surrender of License and Order and have fully
23 discussed it with my attorney, Daniel M. Smith. I understand the stipulation and the effect it will
24 have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License

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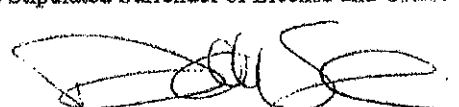
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1 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and
2 Order of the Board of Pharmacy.

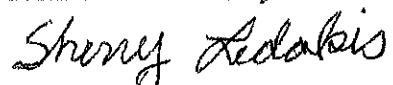
3
4 DATED: 10/17/14 
5 DULCE JACQUELINE YEPIZ
6 Respondent

7 I have read and fully discussed with Respondent Dulce Jacqueline Yepiz the terms and
8 conditions and other matters contained in this Stipulated Surrender of License and Order. I
9 approve its form and content.

10 DATED: 10-17-14 
11 DANIEL M. SMITH
12 Attorney for Respondent

13 ENDORSEMENT

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

16 Dated: ^(SD) 10/20/14 Respectfully submitted,
17 KAMALA D. HARRIS
18 Attorney General of California
19 LINDA K. SCHNEIDER
20 Senior Assistant Attorney General
21 
22 SHERRY L. LEDAKIS
23 Deputy Attorney General
24 Attorneys for Complainant

25 SD2012704345

Exhibit A

Accusation No. 4452

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
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P.O. Box 85266
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12 **DULCE JACQUELINE YEPIZ**
13 **752 Mission Grove Place, #503**
Escondido, CA 92025

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **56601**

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 May 28, 2004, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 56601 to Dulce Jacqueline Yepiz (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 September 30, 2013, unless renewed.

26 ///

27 ///

28 ///

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 unless otherwise indicated.

5 4. Section 4300 subdivision (a) of the Code states: "Every license issued may be
6 suspended or revoked."

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

11 **STATUTORY PROVISIONS**

12 6. Section 4301 of the Code states:

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

16 (a) Gross immorality.

17 ...

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

20 ...

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

22 ...

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

26

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1 7. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
2 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
3 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

4 8. Section 4060 of the Code states:

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

18

19 COST RECOVERY

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

26 DRUGS

27 10. Norco 10/325 mg, a brand name for hydrocodone/acetaminophen, is a Schedule III
28 controlled substance, a dangerous drug pursuant to Code section 4022, and is used to treat
29 moderate to severe pain.

30 11. Lorcet 10/650 mg, a brand name for hydrocodone/acetaminophen, is a Schedule III
31 controlled substance, a dangerous drug pursuant to Code section 4022, and is used to treat
32 moderate to severe pain.

33 12. Xanax, a brand name for alprazolam is a Schedule IV controlled substance, a 2
34 dangerous drug pursuant to Code section 4022, and is used to treat anxiety.

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FACTS

13. On December 6, 2010, Respondent was working as a pharmacy technician at PharMerica Pharmaceutical Company ("PharMerica") in San Diego, California. Respondent was an order entry technician, a clerical position at the pharmacy that does not require her to be in the narcotic filling area of the pharmacy. However, on or about December 6-7, 2010, video surveillance shows Respondent going into the drug filling station where another pharmacy technician observed Respondent packaging and labeling a controlled substance prescription. Respondent was then observed preparing a manifest for the medication. The dispensed prescription was never checked by a pharmacist for accuracy as required. Instead Respondent was observed taking the filled prescription and the manifest to the driver's area where it was picked up for delivery by driver J.C.

14. A prescription for Norco 10/325, 30 tablets was dispensed and delivered on December 7, 2010 at 2:15 a.m. and the delivery was verified by a signed delivery manifest. At approximately 4:15 p.m., Respondent reprinted two additional labels for the same prescription (total of 60 tablets).

15. On December 10, 2010, Respondent reprinted a label for another prescription for Norco 10/325, 120 tablets, using a computer assigned to a pharmacy filling technician. Four other pharmacy technicians observed Respondent fill the prescription, take it to the drivers' pick up area and hand the medication to J.C., although J.C. was not scheduled to work that day.

16. On December 30, 2010, the Board received a report of theft of controlled substances from PharMerica. The Pharmacist in Charge (PIC) for PharMerica reported that Respondent stole Norco 10/325 from the pharmacy and that 1,996 tablets were unaccounted for.

17. An audit of the pharmacy revealed the following unaccounted for medications:

- 42 tablets of Tylenol #3;
- 65 tablets of Xanax; 0.25 mg.;
- 44 tablets of Xanax 0.5 mg.;
- 410 tablets of Lorcet 10/650 mg.;
- 1,996 tablets of Norco 10/325 mg.;

1 59 tablets of hydrocodone 7.5/500 mg.; and
2 43 tablets of Norco 5/325 mg.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Commission of Acts Involving**
5 **Gross Immorality, Moral Turpitude, Dishonesty, Fraud, Deceit & Corruption)**

6 18. Respondent is subject to disciplinary action under section 4301, subdivisions (a) and
7 (f) of the Code in that on or about December 6-7, 2010 and December 10, 2010, Respondent was
8 observed diverting controlled substances and dangerous drugs from her employer, acts involving
9 gross immorality, fraud, deceit, and dishonesty, as detailed in paragraphs 13-17, above, which
10 paragraphs are hereby incorporated by reference. Such conduct is substantially related to the
11 qualifications, duties, and functions of a pharmacy technician.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct - Possession and Furnishing of**
14 **Controlled Substances Without an Authorized Prescription)**

15 19. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
16 Code in that on or about December 6-7, 2010 and December 10, 2010, Respondent knowingly
17 violated Business and Professions Code sections 4059 and 4060 in that she possessed and
18 furnished dangerous drugs without an authorized prescription, as detailed in paragraphs 13-17,
19 above, which paragraphs are hereby incorporated by reference. Such conduct is substantially
20 related to the qualifications, duties, and functions of a pharmacy technician.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Violating and/or Conspiring to**
23 **Violate Federal and State Laws Governing Pharmacy)**

24 20. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
25 Code in that on or about December 6 -7 and December 10, 2010, Respondent violated or
26 attempted to violate, directly or indirectly, or conspired to violate provisions of this chapter (the
27 Pharmacy Law, Bus. & Prof. Code, § 4000 et seq.), including Code sections 4059 and 4060, as
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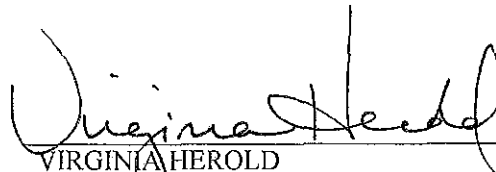
1 detailed in paragraphs 13-17, above, which paragraphs are hereby incorporated by reference.
2 Such conduct is substantially related to the qualifications, duties, and functions of a pharmacy
3 technician.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 56601,
8 issued to Dulce Jacqueline Yepiz
9 2. Ordering Dulce Jacqueline Yepiz to pay the Board of Pharmacy the reasonable costs
10 of the investigation and enforcement of this case, pursuant to Business and Professions Code
11 section 125.3; and
12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 7/12/13



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

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19 SD2012704345
20 accusation.rtf
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