

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

In the Matter of the Accusation Against:

Case No. 4735

MORENA ELIZABETH VELASQUEZ
6952 Tyrone Avenue
Van Nuys, CA 91405

**Pharmacy Technician Registration
No. TCH 75912**

Respondent.

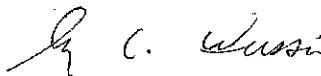
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Surrender 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 January 9, 2015.

It is so ORDERED on January 2, 2015.

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 ARMANDO ZAMBRANO
 Supervising Deputy Attorney General
 3 KRITHHIKA VASUDEVAN
 Deputy Attorney General
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Attorneys for Complainant
 7

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

11 In the Matter of the Accusation Against:
 12 **MORENA ELIZABETH VELASQUEZ**
 6952 Tyrone Ave.
 13 Van Nuys, CA 91405
 14 Pharmacy Technician Registration No. TCH 75912
 15 Respondent.

Case No. 4735
**STIPULATED SURRENDER OF
 LICENSE AND DISCIPLINARY
 ORDER**

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

20 **PARTIES**

21 1. ~~Virginia Herold~~ (Complainant) is the ~~Executive Officer~~ of the Board of Pharmacy
 22 (Board). She brought this action solely in her official capacity and is represented in this matter by
 23 Kamala D. Harris, Attorney General of the State of California, by Kriththika Vasudevan, Deputy
 24 Attorney General.

25 2. On or about June 13, 2007, the Board issued Pharmacy Technician Registration No.
 26 TCH 75912 to Morena Elizabeth Velasquez (Respondent). The Pharmacy Technician
 27 Registration was in full force and effect at all times relevant to the charges and allegations
 28 brought in Accusation No. 4375, and will expire on December 31, 2014, unless renewed.

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JURISDICTION

3. Accusation No. 4375 was filed before the Board, Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 15, 2014. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4375 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

4. Respondent has carefully read, and understands the charges and allegations in Accusation No. 4375.

5. Respondent has also carefully read, and understands the effects of this Stipulated Surrender of License and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 4375.

9. Respondent agrees that her Pharmacy Technician Registration is subject to discipline and agrees to be bound by the discipline imposed by the Board as set forth in the Disciplinary Order below.

10. Respondent hereby agrees to surrender Pharmacy Technician Registration for the Board's formal acceptance.

1 11. Respondent understands that by signing this stipulation she enables the Board to
2 issue an order accepting the surrender of her Pharmacy Technician Registration Number TCH
3 75912, without further process or formal court hearing.

4 CONTINGENCY

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

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

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

23 15. 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
25 Disciplinary Order:

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DISCIPLINARY ORDER

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2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 75912 to
3 Respondent Morena Elizabeth Velasquez, is surrendered and accepted by the Board of Pharmacy.

4 1. Respondent shall lose all rights and privileges as a pharmacy technician in California
5 as of the effective date of the Board's Decision and Order.

6 2. Respondent shall cause to be delivered to the Board her pocket registration and, if one
7 was issued, her wall certificate on or before the effective date of the Decision and Order.

8 3. The surrender of Respondent's pharmacy technician registration and the acceptance
9 of the surrendered registration by the Board shall constitute the imposition of discipline against
10 Respondent. This decision constitutes a record of the discipline and shall become a part of
11 Respondent's history with the Board of Pharmacy.

12 4. Respondent may not apply or reapply for any license, permit, or registration
13 from the Board for three (3) years from the effective date of this Decision and Order.

14 5. Respondent understands and agrees that if she ever applies for licensure or
15 petitions for reinstatement in the State of California, the Board shall treat it as a new
16 application for licensure. Respondent must comply with all the laws, regulations and
17 procedures for licensure in effect at the time the application or petition is filed, and all of
18 the charges and allegations contained in Accusation No. 4375 shall be deemed to be true,
19 correct and admitted by Respondent when the Board determines whether to grant or deny
20 the application. Respondent shall satisfy all requirements applicable to that license as of
21 the date the application is submitted to the Board, including, but not limited to certification
22 by a nationally recognized body prior to the issuance of a new license. Respondent is
23 required to report this surrender as disciplinary action.

24 6. Respondent further stipulates that she shall reimburse the Board for its costs of
25 investigation and prosecution in the amount of \$5,450.00 prior to issuance of a new or reinstated
26 license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

11/5/14


MORENA ELIZABETH VELASQUEZ
Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



KRITHIKA VASUDEVAN
Deputy Attorney General
Attorneys for Complainant

10.31.14

Exhibit A

Accusation No. 4375

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KRITHHIKA VASUDEVAN
Deputy Attorney General
4 State Bar No. 247590
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Telephone: (213) 897-2540
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**

12 In the Matter of the Accusation Against:

Case No. 4735

13 **MORENA ELIZABETH VELASQUEZ**
6952 Tyrone Ave.
Van Nuys, CA 91405

ACCUSATION

14 Pharmacy Technician Registration No. TCH 75912

15 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 (Board).

21 2. On or about June 13, 2007, the Board issued Pharmacy Technician Registration No.
22 TCH 75912 to Morena Elizabeth Velasquez (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on December 31, 2014, 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 (Code) unless otherwise
28 indicated.

1 4. Section 4300(a) of the Code states that "[e]very license issued may be suspended or
2 revoked."

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

7 **STATUTORY PROVISIONS**

8 6. Section 4301 of the Code states:

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

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

17

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

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

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

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7. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section
1153) of Division 10 of the Health and Safety Code."

8. Section 4022 of the Code states

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for

self-use in humans or animals, and includes the following:

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

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

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

9. Section 4059, subdivision (a), of the Code states:

A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

10. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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

11. Health and Safety Code section 11171 provides that "No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division."

REGULATORY PROVISIONS

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

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

public health, safety, or welfare.

CONTROLLED SUBSTANCE/DANGEROUS DRUG

13. Section 4021 of the Code states:

“Controlled substance” means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

14. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and including the following:

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

....

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

15. The following drugs are referenced herein:

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER Code Section 4022	CONTROLLED SUBSTANCE PER Health and Safety Code (HSC)	INDICATION FOR USE
Norco	Hydrocodone / Acetaminophen (APAP)	Yes	HSC 11056 (e)(4)	Pain
Glucophage	Metformin	Yes	No	Diabetes Mellitus
Cialis	Tadalafil	Yes	No	Erectile Dysfunction
Adipex	Phentermine	Yes	HSC 11057(f)(4)	Weight loss
Librium	Chlordiazepoxide	Yes	HSC 11057(d)(5)	Anxiety
Lotensin	Benazepril	Yes	No	High blood pressure
	Vicodin	Yes	HSC 11056(e)(4)	Pain
Xanax	Alprazolam	Yes	HSC 11057(d)(1)	Anxiety
Viagra	Sildenafil Citrate	Yes	No	Erectile Dysfunction
Phenergan with Codeine	Promethazine with Codeine	Yes	HSC 11058(c)(1)	Cough
	Novolin N	Yes	No	Diabetes

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COST RECOVERY

16. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTUAL BACKGROUND

17. CVS Pharmacy, located at 8425 Laurel Canyon, Sun Valley, California, hired Respondent as a pharmacy technician on May 5, 2008.

18. Sometime before April 11, 2012, personnel at CVS Pharmacy suspected Respondent of committing coupon fraud.

19. On April 11, 2012, Lucio Botello, the Regional Loss Prevention Manager for CVS Pharmacy, interviewed Respondent in regards to possible fraudulent activity.

20. Respondent admitted she would use her phone number to ring out her customers. This enabled Respondent to get the "Extra Bucks" coupons in her name. Respondent admitted to using \$50 worth of these coupons for her personal use.

21. She further admitted she was taking merchandise from the store without paying. She said she first started doing this in 2010. The last time she took an item without paying for the merchandise was on April 11, 2012. She took items such as soda, gum, drinks, sandwiches, chips, and frozen dinners. She admitted she had done this approximately three (3) times a week since 2010. She estimated her actions in taking merchandise without paying for them cost the store approximately \$733.59.

22. She also admitted she had taken prescription medication that were not prescribed to her. She stated she began taking medication in 2009. She would grab a handful of medication and put it into her pocket and leave without paying for the medications. She stated she took Norco, Phentermine, Librium, Benzepiril, Vicodin, Xanax, Viagra, Cialis, Promethazine, Metformin, and Novolin N. She said she would give the medication away to people who were in need of the

1 medication. She said the last time she took medications was on April 10, 2012 when she took
2 Phentermine off the shelf. She said she would take medications about twice a week.

3 23. On April 12, 2012, Pharmacy Supervisor, Justin Little, and Ms. Botello conducted
4 physical counts of the drugs Respondent admitted to stealing.

5 24. From CVS Pharmacy's last inventory on May 1, 2011 to April 12, 2012, CVS
6 Pharmacy was missing the following drugs: approximately 1,813 dosage units of
7 Hydrocodone/APAP 7.5 mg/750 mg; 36 dosage units of Hydrocodone/APAP 10 mg/325 mg;
8 1,174 dosage units Alprazolam; 28 dosage units of Cialis; 2,060 dosage units of Metformin; 184
9 dosage units of Phentermine; and 184 dosage units of Chlordizaepoxide. These totals were
10 calculated as follows:

11 12 13 14 15 16 17 18 19	Count at Last Inventory 5/1/2011	Purchases 5/1/2011 to 4/12/2012	Dispensed RXs 5/1/2011 to 4/12/2012	Expected On Hand Inventory	Physical Count on 4/12/2012	Number of Missing Drugs
20 21 22 23 24 25 26 27 28	400	23,000	21,148	3,002	1,189	-1,813
HC/APAP 7.5/750	1,005	17,700	18,195	510	474	-36
HC/APAP 10/325	115	2800	1,576	1,339	165	-1,174
Alprazolam	57	360	361	56	28	-28
Cialis	11,400	108,700	112,216	7,885	5,825	-2060
Metformin	50	800	540	310	126	-184
Phentermine	50	800	540	310	126	-184
Chlordizaepoxide						

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct – Furnishing of Controlled Substance(s))**

22 25. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
23 and (o), and Code section 4059, in conjunction with Health and Safety Code section 11171, in
24 that Respondent furnished to herself or another without a valid prescription, and/or conspired to
25 furnish, and/or assisted or abetted furnishing of, controlled substances or dangerous drugs.
26 Complainant refers to and by this reference incorporates the allegations set forth above in
27 paragraphs 21 through 24, inclusive, as though set forth fully.

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SECOND CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

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5 26. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
6 and (o), on the grounds of unprofessional conduct, in that Respondent committed acts involving
7 moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this
8 reference incorporates the allegations set forth above in paragraphs 17 through 24, inclusive, as
9 though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Possession of Dangerous Drugs and Controlled Substances Without a Valid Prescription)

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12 27. Respondent is subject to disciplinary action under Code section 4301, subdivision (j)
13 and (o), and Code Section 4060, in that Respondent possessed, conspired to possess, or assisted in
14 or abetted possession of dangerous drugs and controlled substances without a valid prescription.
15 Complainant refers to and by this reference incorporates the allegations set forth above in
16 paragraphs 21 through 24, inclusive, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Acts Would Warrant Denial of License)

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19 28. Respondent is subject to disciplinary action under Code section 4301, subdivision (p)
20 and (o), and Code Section 4060, in that Respondent committed acts that would have warranted a
21 denial of a license. Complainant refers to and by this reference incorporates the allegations set
22 forth above in paragraphs 17 through 24, inclusive, as though set forth fully.

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PRAYER

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

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1. Revoking or suspending Pharmacy Technician Registration Number TCH 75912,

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issued to Morena Elizabeth Velasquez;

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2. Ordering Morena Elizabeth Velasquez to pay the Board of Pharmacy the reasonable

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costs of the investigation and enforcement of this case, pursuant to Business and Professions

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Code section 125.3;

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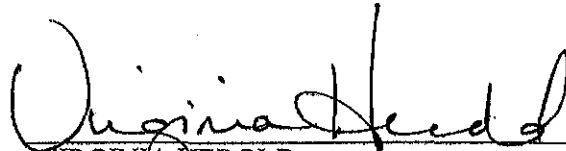
3. Taking such other and further action as deemed necessary and proper.

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DATED:

3/27/14



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

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KV(3/18/14)

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