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

In the Matter of the Accusation Against:

**RENEE MIRAMONTES
901 Via Verde
Del Rey Oaks, CA 93940**

Pharmacy Technician License No. TCH 25714

Respondent.

Case No. 4965

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 4, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4965 against Renee Miramontes (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as exhibit A.)

2. On or about May 12, 1998, the Board of Pharmacy (Board) issued Pharmacy Technician Registraton No. TCH 25714 to Respondent. The Pharmacy Technician Registraton was in full force and effect at all times relevant to the charges brought in Accusation No. 4965 and will expire on August 31, 2015, unless renewed.

3. On or about February 11, 2014, Respondent was served by Certified and First Class Mail with copies of: Accusation No: 4965; a Statement to Respondent; a Notice of Defense (2 copies); a Request for Discovery; and the text of the Discovery Statutes (Government Code

1 sections 11507.5, 11507.6, and 11507.7), at Respondent's address of record which was and is:
2 901 Via Verde, Del Rey Oaks, CA 93940. On or about February 13, 2014, the Certified Mail
3 Return Receipt card associated with the Certified Mail delivery of these materials was signed and
4 returned by "Renee Miramontes," apparently demonstrating receipt of same by Respondent.

5 4. Pursuant to Business and Professions Code section 136 and/or 4100, and/or California
6 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes
7 thereto, are required to be reported and maintained with the Board.

8 5. Service of the Accusation was effective as a matter of law under Government Code
9 section 11505, subdivision (c) and/or Business & Professions Code section 124.

10 6. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4965.

18 8. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
22 respondent.

23 9. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 4965, finds that
28 the charges and allegations in Accusation No. 4965, are separately and severally, found to be true
and correct by clear and convincing evidence.

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1 e. Respondent's License is subject to revocation pursuant to Business and Professions
2 Code section(s) 4301(l) and/or 490, by reference to California Code of Regulations, title 16,
3 section 1770, for the conviction of substantially related crime(s), in that on or about August 13,
4 2013, in *People v. Renee Miramontes*, Case No. SS130425A in Monterey County Superior Court,
5 based on the conduct described above, Respondent was convicted of violating Penal Code section
6 487(a) (Grand theft > \$400.00), a felony.

7 f. Respondent's License is subject to revocation pursuant to Business and Professions
8 Code section 4301, in that Respondent, as described above, engaged in unprofessional conduct.

9
10 ORDER

11 IT IS SO ORDERED that Pharmacy Technician License No. TCH 25714, heretofore issued
12 to Respondent Renee Miramontes, is revoked.

13 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
14 written motion requesting that the Decision be vacated and stating the grounds relied on within
15 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
16 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

17 This Decision shall become effective on May 19, 2014.

18 It is so ORDERED April 17, 2014.

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20 BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

21
22 By Stan C. Weisser
23 STAN C. WEISSER
Board President

24 40922499.DOC
DOJ Matter ID:SF2013406224

25 Attachment:
26 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
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455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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. 4965

11 **RENEE MIRAMONTES**
12 **901 Via Verde**
13 **Del Rey Oaks, CA 93940**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 25714**
15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about May 12, 1998, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 25714 to Renee Miramontes (Respondent). The License was in force and effect
22 at all times relevant to the charges herein and will expire on August 31, 2015, unless renewed.

23
24 JURISDICTION

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code (Code) unless otherwise indicated.

28 ///

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

5 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
6 revoke a license when it finds that the licensee has been convicted of a crime substantially related
7 to the qualifications, functions or duties of the license.

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

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

15 10. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
16 drug or dangerous device except upon the prescription of an authorized prescriber.

17 11. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
18 controlled substance, except that furnished upon a valid prescription/drug order.

19 12. Health and Safety Code section 11170 provides that no person shall prescribe,
20 administer, or furnish a controlled substance for himself or herself.

21 13. Health and Safety Code section 11173, subdivision (a), provides that no person shall
22 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
23 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
24 or subterfuge; or (2) by the concealment of a material fact.

25 14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
26 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
27 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

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COST RECOVERY

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

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16. 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.”

17. 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 includes the following:

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

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“(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.”

18. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. The varying compounds are also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

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FACTUAL BACKGROUND

19. Between on or about July 24, 1995 and on or about February 19, 2013, Respondent was employed as a pharmacy technician by CVS Pharmacy, most recently at a CVS Pharmacy (PHY 49355) in Carmel, CA, where by virtue of her employment she had access to controlled substances and dangerous drugs.

1 SECOND CAUSE FOR DISCIPLINE

2 (Furnishing of Controlled Substance(s))

3 23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
4 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described
5 in paragraphs 19 to 21 above, furnished to herself or another without a valid prescription, and/or
6 conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

7 THIRD CAUSE FOR DISCIPLINE

8 (Possession of Controlled Substance(s))

9 24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
10 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described
11 in paragraphs 19 to 21 above, possessed, conspired to possess, and/or assisted in or abetted
12 possession of, a controlled substance, without a prescription.

13 FOURTH CAUSE FOR DISCIPLINE

14 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

15 25. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
16 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
17 19 to 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
18 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

19 FIFTH CAUSE FOR DISCIPLINE

20 (Conviction of Substantially Related Crime(s))

21 26. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
22 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
23 substantially related crime(s), in that on or about August 13, 2013, in the criminal case *People v.*
24 *Renee Miramontes*, Case No. SS130425A in Monterey County Superior Court, Respondent was
25 convicted of violating Penal Code section 487(a) (Grand theft > \$400.00), a felony, as follows:
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1 a. On or about April 2, 2013, based on the conduct described in paragraphs 19 to
2 21 above, Respondent was charged by Information in Case No. SS130425A with violating Penal
3 Code section 487(a) (Grand theft > \$400.00), a felony.

4 b. On or about August 13, 2013, in Case No. SS130425A, Respondent pleaded no
5 contest to violating Penal Code section 487(a) (Grand theft > \$400.00), a felony.

6 c. On or about September 19, 2013, imposition of sentence was suspended and
7 Respondent was placed on formal probation for three (3) years on terms and conditions including
8 sixty (60) days in county jail (4 days CTS), participation in counseling/substance abuse treatment
9 as ordered by probation, and payment of restitution, fines and fees.

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11 SEVENTH CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct)

13 27. Respondent is subject to discipline under section 4301 of the Code in that
14 Respondent, as described in paragraphs 19 to 27 above, engaged in unprofessional conduct.

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16 PRAYER

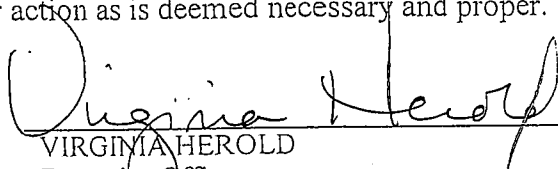
17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Pharmacy issue a decision:

19 1. Revoking or suspending Pharmacy Technician License Number TCH 25714, issued to
20 Renee Miramontes (Respondent);

21 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
22 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

24 DATED: 2/4/14

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

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