

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

In the Matter of the Accusation Against:

Case No. 5560

**ENRIQUE MORENO**  
12996 Fern Ave.  
Chino, CA 91710

**Pharmacy Technician Registration No. TCH  
104746**

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 at 5:00 p.m. on October 24, 2016.

It is so ORDERED on September 23, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 CHRISTINE J. LEE  
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4 State Bar No. 282502  
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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

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Case No. 5560

11 **ENRIQUE MORENO**  
12 12996 Fern Ave.  
13 Chino, CA 91710

14 **Pharmacy Technician Registration No. TCH**  
**104746**

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

15 Respondent.

16  
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 **PARTIES**

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

24 2. Enrique Moreno (Respondent) is representing himself in this proceeding and has  
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about June 30, 2010, the Board of Pharmacy issued Pharmacy Technician  
27 Registration No. TCH 104746 to Enrique Moreno (Respondent). The Pharmacy Technician  
28

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation  
2 No. 5560 and will expire on December 31, 2017, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 5560 was filed before the Board of Pharmacy (Board), Department of  
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
6 statutorily required documents were properly served on Respondent on April 8, 2016.

7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation  
8 No. 5560 is attached as Exhibit A and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 5560. Respondent also has carefully read, and understands the effects of this  
12 Stipulated Surrender of License and Order.

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

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation  
24 No. 5560, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician  
25 Registration No. TCH 104746 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue  
27 an order accepting the surrender of his Pharmacy Technician Registration without further process.

28 ///



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

3           3.     Respondent shall cause to be delivered to the Board his pocket license and, if one was  
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5           4.     If he ever applies for licensure or petitions for reinstatement in the State of California,  
6 the Board shall treat it as a new application for licensure. Respondent must comply with all the  
7 laws, regulations and procedures for licensure in effect at the time the application or petition is  
8 filed, and all of the charges and allegations contained in Accusation No. 5560 shall be deemed to  
9 be true, correct and admitted by Respondent when the Board determines whether to grant or deny  
10 the application or petition.

11          5.     Respondent shall pay the agency its costs of investigation and enforcement in the  
12 amount of \$2,502.80 prior to issuance of a new or reinstated license.

13          6.     If Respondent should ever apply or reapply for a new license or certification, or  
14 petition for reinstatement of a license, by any other health care licensing agency in the State of  
15 California, all of the charges and allegations contained in Accusation, No. 5560 shall be deemed  
16 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
17 other proceeding seeking to deny or restrict licensure.

18          7.     Respondent may not apply for any license, permit, or registration from the board for  
19 three (3) years from the effective date of this decision. Respondent stipulates that should she  
20 apply for any license from the board on or after the effective date of this decision, all allegations  
21 set forth in the accusation shall be deemed to be true, correct and admitted by respondent when  
22 the board determines whether to grant or deny the application.

23          8.     Respondent shall satisfy all requirements applicable to that license as of the date the  
24 application is submitted to the board, including, but not limited to certification by a nationally  
25 recognized body prior to the issuance of a new license. Respondent is required to report this  
26 surrender as disciplinary action.

27     ///

28     ///

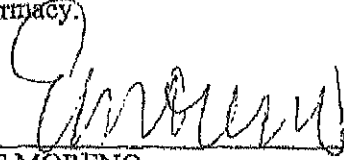
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ACCEPTANCE

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

DATED:

5/11/2016



ENRIQUE MORENO  
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: 5/12/16

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

  
CHRISTINE J. LEE  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 5560**



1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 CHRISTINE J. LEE  
Deputy Attorney General  
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13 Chino, CA 91710

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **104746**

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.

21 2. On or about June 30, 2010, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 104746 to Enrique Moreno (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, 2017, 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 8. Section 493 of the Code states:

2 "Notwithstanding any other provision of law, in a proceeding conducted by a  
3 board within the department pursuant to law to deny an application for a license or to  
4 suspend or revoke a license or otherwise take disciplinary action against a person who  
5 holds a license, upon the ground that the applicant or the licensee has been convicted  
6 of a crime substantially related to the qualifications, functions, and duties of the  
7 licensee in question, the record of conviction of the crime shall be conclusive  
8 evidence of the fact that the conviction occurred, but only of that fact, and the board  
9 may inquire into the circumstances surrounding the commission of the crime in order  
10 to fix the degree of discipline or to determine if the conviction is substantially related  
11 to the qualifications, functions, and duties of the licensee in question."

12 As used in this section, "license" includes "certificate," "permit," "authority," and  
13 "registration."

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

15 "The board shall take action against any holder of a license who is guilty of unprofessional  
16 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

17 Unprofessional conduct shall include, but is not limited to, any of the following:

18 . . . .

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

22 . . . .

23 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
24 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
26 substances or of a violation of the statutes of this state regulating controlled substances or  
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
28 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1 The board may inquire into the circumstances surrounding the commission of the crime, in order  
2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
3 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
4 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
5 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
6 of this provision. The board may take action when the time for appeal has elapsed, or the  
7 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
8 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
9 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
10 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
11 indictment.

12 . . . .

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

17 10. Health and Safety Code section 11173 subdivision (a) states: "No person shall obtain  
18 or attempt to obtain controlled substances, or procure or attempt to procure the administration of  
19 or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or  
20 (2) by the concealment of a material fact."

21 **REGULATORY PROVISION**

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

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



1 *Moreno* (Super. Ct. Riverside County, 2015, No. RIF500098). The court sentenced Respondent  
2 to serve 120 days in jail, placed him on probation for a period of 36 months, and ordered him to  
3 pay fines, fees, and restitution.

4 b. The circumstances surrounding the conviction are that in December 2012 the  
5 Respondent falsely refilled Norco prescriptions for his daughter. Another pharmacy employee  
6 contacted the doctor's office to verify the prescriptions and discovered the prescription refills  
7 were never approved.

8 **SECOND CAUSE FOR DISCIPLINE**

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

10 15. Respondent is subject to disciplinary action under sections 4300 and 4301,  
11 subdivision (f), on the grounds of unprofessional conduct as Respondent committed an act  
12 involving moral turpitude, dishonesty, fraud, deceit and corruption, whether the act was  
13 committed in the course of relations as a licensee or otherwise, and whether the act is a felony or  
14 misdemeanor or not. Complainant refers to, and by this reference incorporates, the allegations set  
15 forth above in paragraph 14 as though set forth fully.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Violation of Pharmacy Act)**

18 16. Respondent is subject to disciplinary action under section 4301, subdivision (o), on  
19 the grounds of unprofessional conduct, in that Respondent was convicted of a crime and  
20 committed an act that was in violation of the Pharmacy Act. Complainant refers to, and by this  
21 reference incorporates, the allegations set forth above in paragraphs 14 through 15, inclusive, as  
22 though set forth fully.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacy Technician Registration Number TCH 104746,  
27 issued to Enrique Moreno;

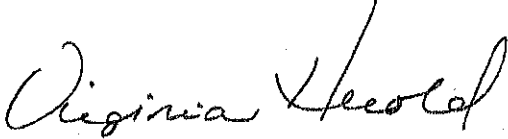
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2. Ordering Enrique Moreno to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 3/18/16



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

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