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

12 In the Matter of the Accusation Against:

Case No. 3791

13 **DANIEL MOISES SANCHEZ**
3915 S. Wilton Place
14 Los Angeles, CA 90062

A C C U S A T I O N

15 Pharmacy Technician Registration
No. TCH 48039

16 Respondent.

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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 August 15, 2003, the Board of Pharmacy issued Pharmacy Technician
23 Registration No. TCH 48039 to Daniel Moises Sanchez (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on December 31, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

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4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 490 states, in pertinent part:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

“(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee’s license was issued.

“(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.”

6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4301 states, in pertinent part:

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

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

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5 (l) The conviction of a crime substantially related to the qualifications, functions, and
 6 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
 7 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
 8 substances or of a violation of the statutes of this state regulating controlled substances or
 9 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
 10 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
 11 The board may inquire into the circumstances surrounding the commission of the crime, in order
 12 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
 13 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
 14 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
 15 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
 16 of this provision. The board may take action when the time for appeal has elapsed, or the
 17 judgment of conviction has been affirmed on appeal or when an order granting probation is made
 18 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
 19 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
 20 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
 21 indictment.”

22 **REGULATORY PROVISIONS**

23 8. California Code of Regulations, title 16, section 1770 states, in pertinent part;

24 "For the purpose of denial, suspension, or revocation of a personal or facility license
 25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
 26 crime or act shall be considered substantially related to the qualifications, functions or duties of a
 27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Substantially Related Crime)**

10 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
11 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
12 Respondent has been convicted of a crime substantially related to the qualifications, functions, or
13 duties of a pharmacy technician. On or about May 7, 2010, Respondent was convicted by a jury
14 of one felony count of violating Penal Code section 245, subdivision (a)(2) [assault with a
15 firearm] and one felony count of Penal Code section 245, subdivision (a)(1) [assault with a deadly
16 weapon] in the criminal proceeding entitled *The People of the State of California v. Daniel*
17 *Moises Sanchez* (Super. Ct. Los Angeles County, 2010, No. BA354354). The Court sentenced
18 Respondent to six (6) years in State Prison. The circumstances surrounding the conviction are
19 that on or about March 20, 2009, Respondent was at a 76 Gas Station, in Los Angeles, CA
20 pumping gas. He went inside to pay and when he returned to his vehicle, he saw the victim inside
21 his vehicle. Respondent confronted the victim, which caused him to flee the location. He chased
22 the victim down the street with an aluminum baseball bat. Respondent and another male drove
23 around looking for the victim. When they found him, the other male pulled out a gun, fired
24 several rounds at the victim, and Respondent drove away. Respondent was subsequently arrested
25 for violating Penal Code section 187, subdivision (a) [attempted murder].

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, or Deceit)**

3 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
4 that on or about May 17, 2007, Respondent committed dishonest acts, fraud, or deceit with the
5 intent to substantially benefit himself, by soliciting "sexual intercourse" and "oral copulation"
6 from an undercover Los Angeles Police Department Officer. Respondent was subsequently
7 arrested for violating Penal Code section 647, subdivision (b) [soliciting for prostitution].

8 **DISCIPLINE CONSIDERATIONS**

9 12. To determine the degree of discipline, if any, to be imposed on Respondent,
10 Complainant alleges the following:

11 a. On or about June 3, 2005, after pleading nolo contendere, Respondent was convicted
12 of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) [driving
13 without a valid driver's license] in the criminal proceeding entitled *The People of the State of*
14 *California v. Daniel Moises Sanchez* (Super. Ct. Los Angeles County, 2005, No. 4WL11499) The
15 Court placed Respondent on probation for a period of 12 months, with terms and conditions. The
16 circumstances surrounding the conviction are that on or about April 19, 2004, Respondent drove a
17 vehicle without a valid driver's license.

18 b. On or about July 15, 2002, after pleading nolo contendere, Respondent was convicted
19 of one misdemeanor count of violating Penal Code section 10851, subdivision (a) [taking vehicle
20 without owner's consent] in the criminal proceeding entitled *The People of the State of California*
21 *v. Daniel Moises Sanchez* (Super. Ct. Los Angeles County, 2002, No. 2CR0825701). The Court
22 placed Respondent on 24 months probation, with terms and conditions. The circumstances
23 surrounding the conviction are that on or about May 17, 2002 Respondent took a vehicle without
24 the owner's consent.

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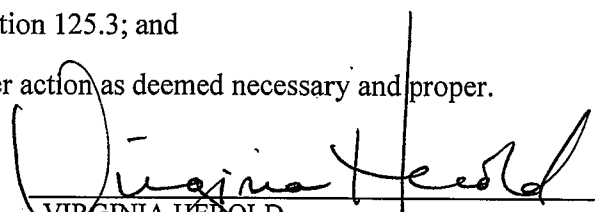
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PRAYER

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:

1. Revoking or suspending Pharmacy Technician Registration No. TCH 48039, issued to Respondent;
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: 2/23/11



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

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