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7	Attorneys for Complainant
8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 4209
12	JEANNETTE PADILLA A C C U S A T I O N
13	714 Grand Street D Nipomo, CA 93444
14	Pharmacy Technician License No. TCH 103465
15	Respondent.
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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 29, 2010, the Board of Pharmacy (Board) issued Pharmacy
22	Technician License No. TCH 103465 to Jeannette Padilla (Respondent). The Pharmacy
23	Technician License was in full force and effect at all times relevant to the charges brought herein
24	and will expire on March 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 unless otherwise indicated.
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Accusation

## STATUTORY PROVISIONS 1 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or 2 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary 3 action during the period within which the license may be renewed, restored, reissued or 4 reinstated. 5 5. Section 490 states, in pertinent part: 6 "(a) In addition to any other action that a board is permitted to take against a licensee, a 7 board may suspend or revoke a license on the ground that the licensee has been convicted of a 8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business 9 or profession for which the license was issued. 10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to 11 discipline a licensee for conviction of a crime that is independent of the authority granted under 12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties 13 of the business or profession for which the licensee's license was issued. 14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a 15 conviction following a plea of nolo contendere. Any action that a board is permitted to take 16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or 17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is 18 made suspending the imposition of sentence, irrespective of a subsequent order under the 19 provisions of Section 1203.4 of the Penal Code." 206. Section 4300 provides in pertinent part, that every license issued by the Board is 21subject to discipline, including suspension or revocation. 22 7. Section 4301 states, in pertinent part: 23 "The board shall take action against any holder of a license who is guilty of unprofessional 24 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 25 Unprofessional conduct shall include, but is not limited to, any of the following: 2627111 28 2

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

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

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## **REGULATORY PROVISIONS**

8. California Code of Regulations, title 16, section 1770 states, in pertinent part:
"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
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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	(Convictions of Substantially Related Crimes)
10	10. Respondent is subject to disciplinary action under sections 4301, subdivision (1) 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 July 12, 2011, after pleading nolo contendere,
14	Respondent was convicted of one misdemeanor count of violating Penal Code section 368,
15	subdivision (e) [elder/dependant adult theft], in the criminal proceeding entitled The People of the
16	State of California v. Jeannette Padilla (Super. Ct. San Luis Obispo County, 2011, No.
17	M000457750). The Court placed Respondent on 3 years probation, with terms and conditions.
18	The circumstances surrounding the conviction are that on or about December 22, 2010,
19	Respondent while working as an in-home provider used the credit card of S.H., the elder or
20	dependant adult under her care, to make several unauthorized purchases. During an investigation
21	by the San Luis Obispo Sheriff's Department, Respondent admitted to the officer that she had
22	bought items for herself and that she was intending to reimburse the victim at some point.
23	SECOND CAUSE FOR DISCIPLINE
24	(Acts Involving Dishonest Acts, Fraud, or Deceit)
25	11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
26	that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
27	substantially benefit herself, or substantially injure another. Complainant refers to, and by this
28	reference incorporates, the allegations set forth above in paragraph 10, as though set forth fully.
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Accusation

1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board issue a decision:
4	1. Revoking or suspending Pharmacy Technician License No. TCH 103465, issued to
5	Respondent;
6	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
7	enforcement of this case, pursuant to section 125.3; and
8	3. Taking such other and further action as deemed necessary and proper.
9	$alalin () \cdots (bl)$
10	DATED: 10/9/12 (neimerted) VIRGINIA HEROLD
11	Executive Officer Board of Pharmacy
12	Department of Consumer Affairs State of California
13	Complainant
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