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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. 4209

13 **JEANNETTE PADILLA**  
714 Grand Street D  
Nipomo, CA 93444

**A C C U S A T I O N**

14 **Pharmacy Technician License**  
15 **No. TCH 103465**

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 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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STATUTORY PROVISIONS

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

6       5.    Section 490 states, in pertinent part:

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

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

15       "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
19 made suspending the imposition of sentence, irrespective of a subsequent order under the  
20 provisions of Section 1203.4 of the Penal Code."

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

23       7.    Section 4301 states, in pertinent part:

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

27       .....

28       ///



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 (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 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.

