KAMALA D. HARRIS Attorney General of California	ŀ	1	
Attorney General of California Dhynn NockOLOF Supervising Deputy Attorney General Thorny J. McDonouch Deputy Attorney General State Bar No. 235850 1515 Clay Street, 20th Floor P.O. Box 70550 Oakland, CA 94612-0550 Telephone: (510) 622-2134 Facsimile: (510) 622-2134 Facsimile: (510) 622-2270 E-mail: Tim.McDonough@doj.ca.gov Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA In the Matter of the Accusation Against: SABRINA GUTIERREZ 232 Pearl Street King City, CA 93930 Pharmacy Technician Registration No. TCH 115441 Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. 2. On or about November 7, 2011, the Board of Pharmacy Technician Registration Number TCH 115441 to Sabrina Gutierrez (Respondent). The Pharmacy Technician Registration expired on September 30, 2013, and has not been renewed. /// /// /// /// /// /// /// /// ///			
DIANN SOKOLOF Supervising Deputy Attorney General TIMOTHY J. McDonoluou Deputy Attorney General State Bar No. 233830 1313 Clay Street, 20th Floor P.O. Box 70550 Oakland, CA 94612-0550 Telephone: (510) 622-2170 E-mail: Tim.McDonough@doj.ca.gov Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA In the Matter of the Accusation Against: SABRINA GUTIERREZ 232 Pearl Street King City, CA 93930 Pharmacy Technician Registration No. TCH 11541 Respondent. Complainant alleges: PARTIES 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. 2. On or about November 7, 2011, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 115441 to Sabrina Gutierrez (Respondent). The Pharmacy Technician Registration expired on September 30, 2013, and has not been renewed. ////	1		
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 JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
 - 5. Section 4300 of the Code states, in relevant part:
 - "(a) Every license issued may be suspended or revoked.
- "(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - "(1) Suspending judgment.
 - "(2) Placing him or her upon probation.
 - "(3) Suspending his or her right to practice for a period not exceeding one year.
 - "(4) Revoking his or her license.
- "(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.
- "(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."
 - 6. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board

of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTES

7. Section 4301 of the Code states, in relevant 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:

. .

"(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

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COST RECOVERY

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

CAUSE FOR DISCIPLINE (Conviction of a Crime) (Business and Professions Code § 4301, subd. (I))

- 9. Respondent has subjected her Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (I), in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician. Specifically, on or about October 4, 2013, in a criminal proceeding entitled *The People of the State of California v. Sabrina Gutierrez*, in the Monterey County Superior Court, Case Number SS131407A, Respondent was convicted, upon her plea of no lo contendere, to one count of violating section 21810 of the Penal Code (possession of metal knuckles), a misdemeanor. Respondent was sentenced to serve 40 days in county jail² and placed on probation for 3 years. The Court further ordered Respondent to pay a fine of \$255.00, and to pay various court fees. The facts underlying the arrest are explained below.
- 10. On or about July 16, 2013, Soledad police officers conducted a traffic stop of a vehicle being driven by Respondent's boyfriend, a known gang member who was on Post Release Community Supervision search terms. Respondent was a passenger in the vehicle. In her purse, on the floor of the vehicle, officers found five small zip lock baggies containing methamphetamine, two empty sandwich baggies with methamphetamine residue, a glass methamphetamine pipe, and brass knuckles. More methamphetamine was found in other parts of

² The sentence allowed for Respondent to participate in the Work Alternative Program in lieu of jail time.

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¹ The District Attorney dismissed the other charges in the criminal complaint under Penal Code section 1385 (dismissal in furtherance of justice). These dismissed charges were violations of Health and Safety Code sections 11379, subdivision (a) (transportation of a controlled substance), 11378 (possession of a controlled substance for sale), and 11364, subdivision (a) (possession of controlled substance paraphernalia).

1	the vehicle. Respondent's boyfriend told police that he gave the drugs and the methamphetamine	
2	pipe to Respondent to hide in her purse when he noticed that the vehicle was being stopped.	
3	Respondent's boyfriend also told police that he gave the brass knuckles to Respondent "a while	
4	back" for "self defense." Respondent and her boyfriend were arrested. Respondent was initially	
5	charged with transporting a controlled substance (Health and Saf. Code § 11379, sub. (a)),	
6	possessing a controlled substance for sale (Health and Saf. Code § 11378), possessing controlled	
7	substance paraphernalia (Health and Saf. Code § 11364, subd. (a)), and possessing metal	
8	knuckles. (Pen. Code § 21810.)	
9	PRAYER	
10	WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this	
11	Accusation, and that following the hearing, the Board of Pharmacy issue a decision:	
12	1. Revoking or suspending Pharmacy Technician Registration Number TCH 115441,	
13	issued to Sabrina Gutierrez;	
14	2. Ordering Sabrina Gutierrez to pay the Board of Pharmacy the reasonable costs of the	
15	investigation and enforcement of this case, under Business and Professions Code section 125.3;	
16	3. Taking such other and further action as deemed necessary and proper.	
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19	DATED: 5/2/14 / Jugin a Held	
20	VIRGINIA HEROLD Executive Officer	
21	Board of Pharmacy Department of Consumer Affairs	
22	State of California Complainant	
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