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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. 4951	
12	JORGE EDUARDO SANCHEZ a.k.a.	ACCUSATION	
13	GEORGE EDUARDO SANCHEZ		
14	10315 Western Ave., #A7 Downey, CA 90241		
15	Pharmacy Technician Registration		
16	No. TCH 100708		
17	Respondent.		
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19	Complainant allaces		
20	Complainant alleges:		
21	PARTIES 1 Visch in IVan 11 (Count in and heiner thin A count in a claim has a Cairl again in a		
22	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as		
23	the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
	2. On or about May 12, 2010, the Board of Pharmacy (Board) issued Pharmacy		
24 25	Technician Registration No. TCH 100708 to Jorge Eduardo Sanchez a.k.a. George Eduardo		
Ì	Sanchez (Respondent). The pharmacy technician registration was in full force and effect at all		
26	times relevant to the charges brought herein and will expire on March 31, 2014, unless renewed.		
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Accusation

3. This Accusation is brought before the Board under the authority of the following laws.

All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 492 states:

"Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

"This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division."

5. Section 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer."

- 6. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.
 - 7. Section 4300.1 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."

8. 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:

. . .

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

. . .

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

REGULATORY PROVISIONS

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

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

COST RECOVERY

10. Section 125.3 states, in pertinent 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.

11. CONTROLLED SUBSTANCES/DANGEROUS DRUGS

- a. "Marijuana," is a schedule I controlled substance as defined in Health and Safety Code section 11054, subdivision (d)(13) and is categorized a dangerous drug pursuant to section 4022.
- b. "Xanax," is the brand name for Alprazolam. It is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d) and is categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Illegal Possession of a Controlled Substance)

- 12. Respondent is subject to disciplinary action under section 4301, subdivision (j) in conjunction with section 4060, on the grounds of unprofessional conduct, in that Respondent was found to be in illegal possession of a controlled substance, as follows:
- a. On or about April 26, 2013, Los Angeles County Sheriff's Department officers conducted an enforcement stop of a vehicle after observing its passengers not wearing seatbelts. While speaking to the driver, the officers detected a strong odor of burnt Marijuana emitting from the vehicle, and observed that a passenger in the rear seat was holding an open bottle of beer. All the occupants were asked to exit the vehicle. When Respondent exited the vehicle he was observed removing a plastic pill container from his right jacket pocket and attempting to drop the unlabeled container into the front seat of the vehicle. When asked what was in the pill container, Respondent stated, "It's just Zanax." Respondent later admitted that he did not have a prescription for the "Zanax"/Alprazolam (10 tablets) in the container. Officers further found a small rolled Marijuana cigarette in the center ashtray. Respondent was arrested for illegal possession of a controlled substance.

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b. Subsequently, on or about July 11, 2013, criminal charges were filed against Respondent in the criminal proceeding entitled *The People of the State of California v. George Eduardo Sanchez* (Super. Ct. Los Angeles County, 2013, No. VA130178). On or about July 11, 2013, pursuant to a plea agreement, Respondent pled nolo contendere to one misdemeanor count of violating Health and Safety Code section 11375, subdivision (b)(2) [possession of a controlled substance]. The Court suspended imposition of sentence for 18 months, and ordered Respondent to enroll in a Deferred Entry of Judgment program.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Violation of Licensing Chapter)

13. Respondent is subject to disciplinary action under section 4301, (o), ad 4060, in that Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 13, subparagraphs (a) and (b), inclusive, as though set forth fully.

PRAYER

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

- 1. Revoking or suspending Pharmacy Technician Registration No. TCH 100708, 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 15 14

VIRGINIA MEROLD Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California
Complainant

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