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

10 In the Matter of the Accusation Against:

Case No. 4953

11 **IVAN MAURICIO ORELLANA**  
43459 Cottage Lane  
12 Lancaster, CA 93536

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

13 **Pharmacy Technician Registration No. TCH**  
14 **120045**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the California State Board of Pharmacy (Board).

21 2. On or about October 16, 2012, the Board issued Pharmacy Technician Registration  
22 Number TCH 120045 to Ivan Mauricio Orellana (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on July 31, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following  
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
4 indicated.

5 4. Section 4011 of the Code provides:

6 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and  
7 Professions Code, Sec 4000 et esq.)] and the Uniform Controlled Substances Act (Division 10  
8 commencing with Section 11000) of the Health and Safety Code)."

9 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or  
10 revoke a license issued by the Board.

11 6. Section 4300.1 of the Code states, "the expiration, cancellation, forfeiture, or  
12 suspension of a board-issued license by operation of law or by order or decision of the board or a  
13 court of law, the placement of a license on a retired status, or the voluntary surrender of a license  
14 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any  
15 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision  
16 suspending or revoking the license."

17 **STATUTORY PROVISIONS**

18 7. Section 490 of the Code states, in pertinent part:

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

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

27 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
28 conviction following a plea of nolo contendere. Any action that a board is permitted to take

1 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
2 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
3 made suspending the imposition of sentence, irrespective of a subsequent order under the  
4 provisions of Section 1203.4 of the Penal Code."

5 8. Section 493 of the Code states:

6 "Notwithstanding any other provision of law, in a proceeding conducted by a board within  
7 the department pursuant to law to deny an application for a license or to suspend or revoke a  
8 license or otherwise take disciplinary action against a person who holds a license, upon the  
9 ground that the applicant or the licensee has been convicted of a crime substantially related to the  
10 qualifications, functions, and duties of the licensee in question, the record of conviction of the  
11 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
12 and the board may inquire into the circumstances surrounding the commission of the crime in  
13 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
14 qualifications, functions, and duties of the licensee in question."

15 As used in this section, "license" includes "certificate," "permit," "authority," and  
16 "registration."

17 9. Section 4301 of the Code states, in pertinent part:

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

21 ...

22 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
23 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
24 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
25 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
26 practice authorized by the license.

27 ....

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

3           "(k) The conviction of more than one misdemeanor or any felony involving the use,  
4 consumption, or self administration of any dangerous drug or alcoholic beverage, or any  
5 combination of those substances.

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

23           ...

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

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1 **REGULATORY PROVISION**

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

3 "For the purpose of denial, suspension, or revocation of a personal or facility license  
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
7 licensee or registrant to perform the functions authorized by his license or registration in a manner  
8 consistent with the public health, safety, or welfare."

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially-Related Crime)**

16 12. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,  
17 subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section  
18 1770, on the grounds of unprofessional conduct as Respondent was convicted of a crime  
19 substantially related to the qualifications, functions, or duties of a registered pharmacy technician.

20 a. On or about August 27, 2013, Respondent was convicted of one misdemeanor count  
21 of violating Vehicle Code Section 23103 pursuant to Vehicle Code section 23103.5 [wet  
22 reckless], in the criminal proceeding entitled *The People of the State of California v. Ivan*  
23 *Mauricio Orellana* (Super. Ct. Los Angeles County, 2013, No. ATP3AV0253601). The court  
24 placed him on probation for a period of 24 months and sentenced Respondent to five days in jail  
25 or pay a fine.

26 b. The circumstances surrounding the conviction are that on or about March 23, 2013,  
27 California Highway Patrol Deputies stopped Respondent's vehicle as it was traveling at an unsafe  
28 speed. The deputy observed the patrol vehicle's R.A.D.A.R. unit of Respondent's vehicle to be 81

1 mph. When the Deputy spoke with Respondent, he could smell a strong odor of alcohol from  
2 Respondent's vehicle. When the Deputy asked Respondent if he had anything to drink,  
3 Respondent stated he had not. When the Deputy asked Respondent if he had consumed any  
4 alcohol the night before, Respondent admitted he drank 40 ounces of beer. Respondent also  
5 admitted he had marijuana in his pant pocket. When the Deputy asked if Respondent had a  
6 medical marijuana recommendation, Respondent stated he did not. The deputy did find marijuana  
7 in Respondent's pant pocket. Respondent later submitted to a breath test resulting in a blood  
8 alcohol content of .07% on the first reading and .07% on the second reading.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Conviction of a Substantially-Related Crime)**

11 13. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,  
12 subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section  
13 1770, on the grounds of unprofessional conduct as Respondent was convicted of a crime  
14 substantially related to the qualifications, functions, or duties of a registered pharmacy technician.

15 a. On or about February 4, 2010, Respondent was convicted of one misdemeanor count  
16 of violating Penal Code section 136.1(b)(1) [intimidate/prevent victim from reporting crime], in  
17 the criminal proceeding entitled *The People of the State of California v. Ivan Mauricio Orellana*  
18 (Super. Ct. Los Angeles County, 2010, No. ATP0AV0009001). The court sentenced Respondent  
19 to 10 days community labor, placed him on probation for a period of 36 months, and complete  
20 12-month Domestic Violence Class.

21 b. The circumstances surrounding the conviction are that on or about January 14, 2010,  
22 San Bernardino Sheriff's Department Deputies were dispatched to respond to a spousal assault  
23 report call. Victim, who was Respondent's girlfriend with whom they share a child, told Deputies  
24 that Respondent chased her around the house, and pushed her into a large bean bag chair. Victim  
25 stated Respondent grabbed her face forcefully with his hand and threatened to leave with the  
26 baby. As victim was trying to get away, Respondent grabbed her by the hair and pushed her into  
27 the house. After several minutes, victim was able to flee with her baby to a nearby store. A  
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1 witness also observed Respondent grab the victim by the hair and pull her into the house. Victim  
2 stated there have been prior unreported domestic violence incidents in the past.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially-Related Crime)**

5 14. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,  
6 subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section  
7 1770, on the grounds of unprofessional conduct as Respondent was convicted of a crime  
8 substantially related to the qualifications, functions, or duties of a registered pharmacy technician.

9 a. On or about October 14, 2008, Respondent was convicted of one misdemeanor count  
10 of violating Vehicle Code section 23222(b) [possession of marijuana], in the criminal proceeding  
11 entitled *The People of the State of California v. Ivan Mauricio Orellana* (Super. Ct. Los Angeles  
12 County, 2008, No. ATP8AV1037801). The court ordered Respondent to pay a fine.

13 b. The circumstances surrounding the conviction are that on or about September 12,  
14 2008, Los Angeles County Sheriffs deputies conducted a traffic stop of Respondent's vehicle.  
15 When contacted, the Deputy could smell the strong odor of burnt marijuana emitting from  
16 Respondent's vehicle. When the Deputy approached Respondent's vehicle, the Deputy observed  
17 the interior of the vehicle was full of smoke and could smell a strong odor of marijuana. The  
18 Deputy searched Respondent. The Deputy found a plastic baggie containing a green leafy  
19 substance resembling marijuana from the right front pocket of Respondent's pants.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Illegal Possession of Controlled Substances)**

22 15. Respondent is subject to disciplinary action under Code sections 4300 and 4301,  
23 subdivision (j), in conjunction with Code section 4060, on the grounds of unprofessional conduct,  
24 in that on or March 23, 2013 and September 12, 2008, Respondent was in possession of a  
25 controlled substance, without a valid prescription, violating provisions of the Health and Safety  
26 Code Section 11170 for prescribing, administering and / or furnishing a controlled substance for  
27 himself. Complainant refers to and by this reference incorporates, the allegations set forth above  
28 in paragraphs 12 and 14, as though set forth fully.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Drugs)**

3 16. Respondent is subject to disciplinary action under Code sections 4300 and 4301,  
4 subdivision (h), on the grounds of unprofessional conduct, in that Respondent administered to  
5 himself and used a dangerous drugs to the extent or in a manner as to be dangerous or injurious to  
6 himself or others. Complainant refers to and by this reference incorporates, the allegations set  
7 forth above in paragraphs 12 and 14, as though set forth fully.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Violation of Pharmacy Act)**

10 17. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
11 Code, on the grounds of unprofessional conduct, in that Respondent was committed an act  
12 violating the Pharmacy Act. Complainant refers to, and by this reference incorporates, the  
13 allegations set forth above in paragraphs 12 through 16, inclusive, as though set forth fully.

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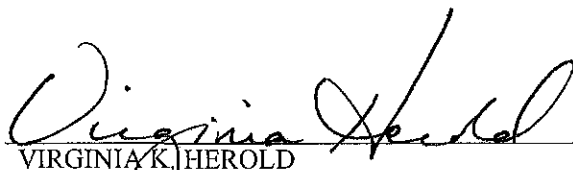
**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 120045, issued to Ivan Mauricio Orellana;
2. Ordering Ivan Mauricio Orellana a to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code ; and
3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

*5/10/14*



VIRGINIA K. HEROLD  
Executive Officer  
California State Board of Pharmacy  
State of California  
*Complainant*

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