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1 2 3 4 5 6 7 8 9 10	KAMALA D. HARRIS Attorney General of California ARMANDO ZAMBRANO Supervising Deputy Attorney General MICHAEL BROWN Deputy Attorney General State Bar No. 231237 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2095 Facsimile: (213) 897-2095 Facsimile: (213) 897-2804 E-mail: MichaelB.Brown@doj.ca.gov Attorneys for Complainant BEFORE THE BOARD OF PHARM DEPARTMENT OF CONSUM STATE OF CALIFO	IACY MER AFFAIRS
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12	In the Matter of the Accusation Against:	Case No. 5054
13	IVAN VILLALPANDO 26 Paradise Valley North	
14	Carson, CA 90745	ACCUSATION
15	Pharmacy Technician Registration No. TCH 117865	
16	Respondent.	
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18	Complainant alleges:	
19	PARTIES	
20	1. Virginia Herold (Complainant) brings this Ac	ccusation solely in her official capacity
21	as the Executive Officer of the Board of Pharmacy, Depa	rtment of Consumer Affairs (Board).
22	2. On or about July 2, 2012, the Board issued Pl	harmacy Technician Registration
23	No. TCH 117865 to Ivan Villalpando (Respondent). The	Pharmacy Technician Registration was
24	in full force and effect at all times relevant to the charges	brought herein and will expire on
25	June 30, 2014, unless renewed.	
26	JURISDICTION	<u>N</u>
27	3. This Accusation is brought before the Board,	under the authority of the following
28	laws. All section references are to the Business and Profe	essions Code unless otherwise indicated.
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1	STATUTORY PROVISIONS	
2	4. Section 492 states:	
3	"Notwithstanding any other provision of law, successful completion of any diversion	
4	program under the Penal Code, or successful completion of an alcohol and drug problem	
5	assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of	
6	Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2	
7	([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that	
8	division, from taking disciplinary action against a licensee or from denying a license for	
9	professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a	
10	record pertaining to an arrest.	
11	"This section shall not be construed to apply to any drug diversion program operated by any	
12	agency established under Division 2 (commencing with Section 500) of this code, or any initiative	
13	act referred to in that division."	
14	5. Section 4300, subdivision (a), states [e]very license issued may be suspended or	
15	revoked."	
16	6. Section 4300.1 states:	
17	"The expiration, cancellation, forfeiture, or suspension of a board-issued license by	
18	operation of law or by order or decision of the board or a court of law, the placement of a license	
19	on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board	
20	of jurisdiction to commence or proceed with any investigation of, or action or disciplinary	
21	proceeding against, the licensee or to render a decision suspending or revoking the license."	
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:	
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1	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or		
2	corruption, whether the act is committed in the course of relations as a licensee or otherwise, and		
3	whether the act is a felony or misdemeanor or not.		
4			
5	"(j) The violation of any of the statutes of this state, or any other state, or of the United		
6	States regulating controlled substances and dangerous drugs."		
7	REGULATORY PROVISION		
8	8. California Code of Regulations, title 16, section 1770, states:		
9	"For the purpose of denial, suspension, or revocation of a personal or facility license		
10	pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a		
11	crime or act shall be considered substantially related to the qualifications, functions or duties of a		
12	licensee or registrant if to a substantial degree it evidences present or potential unfitness of a		
13	licensee or registrant to perform the functions authorized by his license or registration in a manner		
14	consistent with the public health, safety, or welfare."		
15	COST RECOVERY		
16	9. Section 125.3 states, in pertinent part, that the Board may request the administrative		
17	law judge to direct a licentiate found to have committed a violation or violations of the licensing		
18	act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the		
1 9	case.		
20	CONTROLLED SUBSTANCES / DANGEROUS DRUGS		
21	10. Marijuana, hashish and tetrahydrocannabinols (concentrated marijuana) are		
22	hallucinogenic Schedule I controlled substances under State and Federal law. (§11054, subds.		
23	(d)(13) and (20); 21 U.S.C. § 812.) Marijuana is also a dangerous drug as defined in Business and		
24	Professions Code section 4022. Possession of a controlled substance is illegal under federal law		
25	(21 U.S.C. § 844), and the Pharmacy Law (Bus. Prof. Code, § 4000 et seq.) prohibits a person		
26	from possessing any controlled substance without a valid prescription. (Bus. & Prof. Code, §		
27	4060.)		
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1		FIRST CAUSE FOR DISCIPLINE		
2		(Unprofessional Conduct - Violating Drug Statutes)		
3	11.	Respondent is subject to disciplinary action under sections 4300 and 4301,		
4	subdivisio	n (j), on the grounds of unprofessional conduct, in that Respondent was in unlawful		
5	possession	of marijuana. The circumstances are as follows:		
6	a.	On or about August 19, 2013, Police served a search warrant on Respondent's		
7	residence a	and found marijuana, drug sales equipment, marijuana cultivating reference materials,		
8	weapons and gang attire, as follows:			
9	i.	One (1) large plastic bag containing nine (9) ounces of marijuana;		
10	ii.	Seven (7) glass jars containing marijuana;		
11	iii.	Five (5) marijuana bud plants;		
12	iv.	One (1) glass jar containing marijuana seeds;		
13	v.	One (1) roll of plastic sandwich bags used to package marijuana for sales;		
14	vi.	One (1) narcotics scale;		
15	vii.	One (1) gardening supply catalog;		
16	viii.	Gang attire –displaying the logo for known criminal street gang;		
17	ix.	One (1) rifle and two (2) boxes of ammunition;		
18	x.	U.S. currency in the amount of \$199;		
19	xi.	A diagram sketch of the marijuana cultivation system; and		
20	b.	On or about September 18, 2013, Respondent was convicted of violating Health and		
21	Safety Coo	le section 11357(c) [possesses more than 28.5 grams of marijuana]. Respondent was		
22	placed on	the Deferred Entry of Judgment program for 18 months in the criminal proceeding		
23	entitled Th	ne People of the State of California v. Ivan Villalpando (Super. Ct. L.A. County, 2013,		
24	No. TA12	9969).		
25		SECOND CAUSE FOR DISCIPLINE		
26	(4	Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)		
27	12.	Respondent is subject to disciplinary action under sections 4300 and 4301,		
28	subdivisio	n (f), on the grounds of unprofessional conduct, in that Respondent committed acts		
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1	involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to,	
2	and by this reference incorporates, the allegations set forth above in paragraph 11, subparagraphs	
3	(a)(b)(c), inclusive, as though set forth fully.	
4	THIRD CAUSE FOR DISCIPLINE	
5	(Unprofessional Conduct)	
6	13. Respondent is subject to disciplinary action under sections 4300 and 4301, in	
7	conjunction with California Code of Regulations, title 16, section 1770, in that Respondent	
8	committed substantially related acts of unprofessional conduct. Complainant refers to, and by this	
9	reference incorporates the allegations set forth above in paragraphs 11 and 12, inclusive, as	
10	though set forth fully.	
11	DISCIPLINE CONSIDERATIONS	
12	14. To determine the degree of discipline, Complainant alleges that:	
13	a. On or about August 30, 2010, after pleading nolo contendere, Respondent was	
14	convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [drive with an	
15	equal to or greater than 0.08% blood alcohol content (BAC)] in the criminal proceeding entitled	
16	The People of the State of California v. Ivan Villalpando (Super. Ct. L.A. County, 2010, No.	
17	0SY06990). The Court sentenced Respondent to two (2) days jail, place him on three (3) years	
18	probation, ordered him to complete a Three-Month First-Offender Alcohol program, and ordered	
19	him to pay restitution.	
20	b. The circumstances underlying he conviction are that on or about August 28, 2010,	
21	admittedly, after being "pretty drunk" from drinking a "Mike's Hard Lemonade" alcoholic	
22	beverage, Respondent drove a vehicle with four (4) passengers while under the influence of	
23	alcohol, drove against a red light, and caused a traffic collision with another vehicle.	
24	Respondent's BAC tested at 0.13/0.13%.	
25	PRAYER	
26	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
27	and that following the hearing, the Board issue a decision:	
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Revoking or suspending Pharmacy Technician Registration No. TCH117865, issued 1. 1 to Ivan Villalpando; 2 Ordering Ivan Villalpando to pay the Board the reasonable costs of the investigation 2. 3 and enforcement of this case, pursuant to section 125.3; and 4 Taking such other and further action as deemed necessary and proper. 3. 5 6 7 5/3/14 8 DATED: 9 ΊRGIN Executive Officer 10 Board of Pharmacy Department of Consumer Affairs 11 State of California Complainant 12 13 LA2014510910 1/30/2014dmm 14 51448231 3.doc 15 16 17 18 19 20 21 22 23 24 25 26 2728 6 Accusation