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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5451

11 **HECTOR HERNANDEZ**
12 10557 Tamarack Ave
13 Pacoima, CA 91331

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
133362

15 Respondent.

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19 Complainant alleges:

PARTIES

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

23 2. On or about July 1, 2013, the Board issued Pharmacy Technician Registration No.
24 TCH 133362 to Hector Hernandez (Respondent). The Pharmacy Technician Registration expired
25 and was cancelled on April 5, 2015, pursuant to Business and Professions Code section 4402(e).

JURISDICTION

26
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 Professions Code unless otherwise indicated.

1 **STATUTORY PROVISIONS**

2 4. Section 490 provides that a board may suspend or revoke a license on the ground that
3 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
4 duties of the business or profession for which the license was issued.

5 5. Section 493 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 ground
9 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 order
13 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 'registration.'"

16 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
17 revoked."

18 7. Section 4300.1 states:

19 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
20 of law or by order or decision of the board or a court of law, the placement of a license on a
21 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
22 jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding
23 against, the licensee or to render a decision suspending or revoking the license."

24 8. Section 4301 states, in pertinent part:

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

28

1 consistent with the public health, safety, or welfare."

2 **COST RECOVERY**

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

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Conviction of Substantially Related Crimes)**

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

13 a. On or about December 16, 2014, after pleading nolo contendere, Respondent was
14 convicted of one felony count of violating Penal Code section 594(a) [vandalism] in the criminal
15 proceeding entitled *The People of the State of California v. Hector Hernandez III* (Super. Ct.
16 L.A. County, 2014, No. PA079984). The Court sentenced Respondent to three years in jail with
17 18 months suspended, placed him on 18 months mandatory supervised probation with certain
18 terms and conditions, and ordered to pay victim restitution.

19 b. The circumstances underlying the conviction are that on or about March 4, 2014,
20 admittedly, Respondent threw a rock into a neighbor's window.

21 c. On or about December 16, 2014, after pleading nolo contendere, Respondent was
22 convicted of two felony counts, Counts 1 and 5, of violating Penal Code section 459 [burglary,
23 second degree] in the criminal proceeding entitled *The People of the State of California v. Hector*
24 *Hernandez* (Super. Ct. L.A. County, 2014, No. PA082034). The Court sentenced Respondent to
25 three years in jail with 18 months suspended, placed him on 18 months mandatory supervised
26 probation with certain terms and conditions, and ordered to pay victim restitution.

27 d. The circumstances underlying the conviction are that on or about August 28, 2014,
28 Respondent burglarized the business, Xtreme Audio in Santa Clarita, California. Respondent

1 entered through a broken glass back door, and attempted to steal \$2,000.00 worth of items, an
2 amplifier, an Apple laptop, and a rectangle window glass. Responding law enforcement officers
3 found Respondent hiding in the business.

4 e. On or about May 28, 2015, after pleading nolo contendere, Respondent was convicted
5 of one felony count of violating Penal Code section 459 [burglary, second degree] in the criminal
6 proceeding entitled *The People of the State of California v. Hector Hernandez* (Super. Ct. L.A.
7 County, 2015, No. PA083414). The Court sentenced Respondent to eight months jail, and
8 ordered him to pay victim restitution.

9 f. The circumstances underlying the conviction are that on or about June 5, 2014,
10 Respondent burglarized Valley Korean Central Church in North Hills, California, stealing musical
11 instruments.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

14 12. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision
15 (f), on the grounds of unprofessional conduct, in that Respondent committed acts involving moral
16 turpitude, dishonesty, fraud, deceit, or corruption when he committed acts of vandalism and
17 burglary. Complainant refers to and by this reference incorporates the allegations set forth above
18 in paragraph 11, inclusive, as though set forth fully.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician Registration No. TCH 133362, issued
23 to Hector Hernandez;

24 2. Ordering Hector Hernandez to pay the Board the reasonable costs of the investigation
25 and enforcement of this case, pursuant to section 125.3; and

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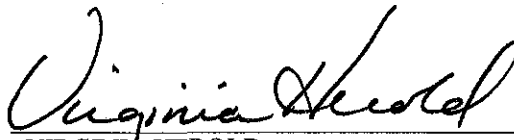
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3. Taking such other and further action as deemed necessary and proper.

DATED:

10/19/15



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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