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8	BEFORE THE BOARD OF PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10	STATE OF C	CALIFORNIA
11	In the Matter of the Accusation Against:	Case No. 5841
12	PATRICIA SANDATE	ACCUSATION
13	1323 Stillman Avenue Redlands, CA 92374	
14		
15	Pharmacy Technician Registration No. TCH 52975	
16	Respondent.	
17		
18	Complainant alleges:	
19	PARTIES	
20	1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity	
21	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs ("Board").	
22	2. On or about January 8, 2004, the Board issued Pharmacy Technician Registration No.	
23	TCH 52975 to Patricia Sandate ("Respondent"). The Pharmacy Technician Registration was in	
24	full force and effect at all times relevant to the charges brought herein, and will expire on	
25	February 28, 2017, unless renewed.	
26	<u>JURISDICTION</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 Professions Code unless otherwise indicated.	
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STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), states that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 5. Section 490 states:
- "(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- (b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
- (c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code."
- 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or revoked."
 - 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 mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

. . . .

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

. . .

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

. . .

(l) 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 . . . the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct..."

REGULATORY PROVISION

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

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FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime - Controlled Substance)

- 11. Respondent is subject to disciplinary action under Code sections 490, 4300, and 4301, subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that, Respondent was convicted of a violation of a statute of this state regulating controlled substances which crime is substantially related to the qualifications, functions, or duties of a registered pharmacy technician which to a substantial degree evidences her present or potential unfitness to perform the functions authorized by her registration in a manner consistent with the public health, safety, or welfare, as follows:
- a. On or about September 9, 2016, after pleading *nolo contendere*, Respondent was convicted of one felony count of violating Penal Code section 32 [accessory after the fact], in the amended complaint in the criminal proceeding entitled *The People of the State of California v. Patricia Sandate* (Super. Ct. Kern County, 2016, No. DF012485B). On October 27, 2016, the Court sentenced Respondent to serve 4 days in jail, 3 years formal probation, and terms and conditions. Probation is scheduled to expire on October 27, 2019.
- b. The circumstances surrounding the conviction are that on September 20, 2015, Respondent was an approved visitor to an inmate at Kern Valley State Prison. A correctional officer monitoring the visiting facility observed Respondent pass contraband to an inmate through a kiss. An investigation revealed that the contraband consisted of between 4 6 bindles of a controlled substance, methamphetamine, and Respondent was arrested.

SECOND CAUSE FOR DISCIPLINE

(Conviction Related to Controlled Substance and Dangerous Drugs).

12. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (j), on the grounds of unprofessional conduct, in that, Respondent committed acts and was convicted of a crime which constitutes a violation of a statute of this state regulating controlled substances and dangerous drugs, as set forth above in paragraphs 11 (a) and (b).

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THIRD CAUSE FOR DISCIPLINE

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

Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (f), on the grounds of unprofessional conduct, in that, Respondent committed acts and was convicted of a crime involving moral turpitude, dishonesty, fraud, deceit, and/or corruption, as set forth above in paragraphs 11 (a) and (b).

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 Pharmacy Technician Registration No. TCH 52975 issued to Patricia Sandate:
- Ordering Patricia Sandate to pay the Board the reasonable costs of the investigation 2. and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
 - 3. Taking such other and further action as deemed necessary and proper.

2/13/17 DATED:

VIRGINIA HEROLD

Executive Officer Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant