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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. 5876
11 <b>ALICIA ANDREA OSUNA</b>	
12 <b>40778 Boyer Avenue</b>	
13 <b>Hemet, CA 92544</b>	<b>A C C U S A T I O N</b>
14 <b>Pharmacist Technician Registration No.</b>	
15 <b>TCH 137137</b>	
16 Respondent.	

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about December 31, 2013, the Board of Pharmacy issued Pharmacist  
22 Technician Registration Number TCH 137137 to Alicia Andrea Osuna (Respondent). The  
23 Pharmacist Technician Registration was in full force and effect at all times relevant to the charges  
24 brought herein and will expire on September 30, 2017, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

1 4. Section **4011** of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section **4300** of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6 6. Section **4300.1** of the Code states:

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

12 **STATUTORY AND REGULATORY PROVISIONS**

13 7. Section **4301** of the Code provides, in pertinent part, that the Board shall take action  
14 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but  
15 not be limited to, any of the following:

16 ...

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

20 ...

21 (l) The conviction of a crime substantially related to the qualifications, functions, and duties  
22 of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
24 substances or of a violation of the statutes of this state regulating controlled substances or  
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
27 The board may inquire into the circumstances surrounding the commission of the crime, in order  
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
4 of this provision. The board may take action when the time for appeal has elapsed, or the  
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
9 indictment.

10 ...

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

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

18 **COST RECOVERY**

19 9. Section 125.3 of the Code provides, in pertinent part, that a Board may request the  
20 administrative law judge to direct a licentiate found to have committed a violation or violations of  
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
22 enforcement of the case.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Criminal Conviction)

25 10. Respondent is subject to disciplinary action under Code section 4301, subsection  
26 (l), in that she has been convicted of crimes substantially related to the qualifications, functions,  
27 and duties of a licensee. The circumstances are as follows:

28 11. On or about April 6, 2016, in San Bernardino Superior Court case number

1 FVI1502701-1, Respondent was convicted of having violated California Penal Code section  
2 487(a) (grand theft), a felony. The conviction was based on conduct which occurred on or about  
3 November 6, 2015, during which Respondent and co-conspirators went to various Kohl's stores  
4 and stole items amounting in value to almost \$5,000.00.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Acts of Dishonesty)

7 12. Respondent is subject to disciplinary action under Code section 4301, subsection (f), in that  
8 she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth  
9 above in paragraph 11.

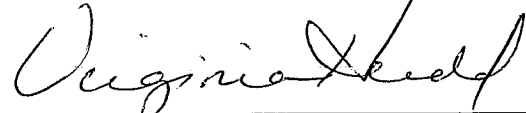
10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacist Technician Registration Number TCH 137137,  
14 issued to Alicia Andrea Osuna;
- 15 2. Ordering Alicia Andrea Osuna to pay the Board of Pharmacy the reasonable costs of  
16 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
17 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.

19  
20 DATED: \_\_\_\_\_

8/16/16



21 VIRGINIA HEROLD  
22 Executive Officer  
23 Board of Pharmacy  
24 Department of Consumer Affairs  
25 State of California  
26 Complainant