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

11 In the Matter of the Accusation Against:

Case No. 5893

12 **SUSANA HERNANDEZ-PEREZ**  
3510 West 118th Street  
13 Inglewood, CA 90303

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

14 Pharmacy Technician License No. TCH 118757

15 Respondent.

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18  
19 Complainant alleges:

20 **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 December 19, 2011, the Board issued Pharmacy Technician License  
24 No. TCH 118757 to Susana Hernandez-Perez (Respondent). The Pharmacy Technician License  
25 expired on September 30, 2013, and was canceled on January 5, 2014.

26 **JURISDICTION**

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 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A  
2 person may not furnish any dangerous device, except upon the prescription of a physician, dentist,  
3 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.”

4 8. Section 4060 states:

5 “No person shall possess any controlled substance, except that furnished to a person upon  
6 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
7 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
8 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
9 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
10 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
11 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply  
12 to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
13 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
14 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
15 labeled with the name and address of the supplier or producer.

16 “Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician  
17 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

#### 18 DRUG STATUTES

19 9. Health and Safety Code section 11007 states:

20 ““Controlled substance,” unless otherwise specified, means a drug, substance, or immediate  
21 precursor which is listed in any schedule in Section 11054, 11055, 11056, 11057, or 11058.”

22 10. Health and Safety Code section 11173, subdivision (a), provides that it is illegal to  
23 possess a controlled substance without a valid prescription.

24 11. Health and Safety Code section 11350, subdivision (a), states that:

25 “Except as otherwise provided in this division, every person who possesses (1) any  
26 controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of  
27 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
28 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section

1 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug,  
2 unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to  
3 practice in this state, shall be punished by imprisonment in a county jail for not more than one year,  
4 except that such person shall instead be punished pursuant to subdivision (h) of Section 1170 of  
5 the Penal Code if that person has one or more prior convictions for an offense specified in clause  
6 (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or  
7 for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.”

8 12. United States Code Service, title 21, section 844 states, in pertinent part:

9 “(a) Unlawful acts; penalties. It shall be unlawful for any person knowingly or intentionally  
10 to possess a controlled substance unless such substance was obtained directly, or pursuant to a  
11 valid prescription . . .

12 “(c) "Drug, narcotic, or chemical offense" defined. As used in this section, the term " drug,  
13 narcotic, or chemical offense" means any offense which proscribes the possession, distribution,  
14 manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute,  
15 manufacture, cultivate, sell or transfer any substance the possession of which is prohibited under  
16 this title.”

#### 17 REGULATORY PROVISION

18 13. California Code of Regulations, title 16, section 1770, states:

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

#### 25 COST RECOVERY

26 14. Section 125.3 states, in pertinent part, that the Board may request the administrative  
27 law judge to direct a licensee found to have committed a violation or violations of the licensing  
28 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the

1 case.

2 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

3 15. Ambien, a brand name for zolpidem tartrate, is a Schedule IV controlled substance as  
4 defined in Health and Safety Code section 11057(d)(32) and a dangerous drug pursuant to  
5 section 4022.

6 **FIRST CAUSE FOR DISCIPLINE**

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

8 16. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision  
9 (f), on the grounds of unprofessional conduct, in that in or about January 2013 through July 17,  
10 2013, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or  
11 corruption when she admittedly diverted controlled substances and dangerous drugs, merchandise  
12 and monetary rewards from her employer's pharmacy inventory, as follows:

13 a. On or about July 17, 2013, Respondent admitted to her employer that during the prior  
14 six months of her employment, on three occasions she stole, without a valid prescription, a total  
15 of three (3) Ambien 10mg tablets which she gave to her husband so that he could sleep. In  
16 addition, Respondent admitted to stealing other merchandise valued at \$162.88: 4 Arizona Teas,  
17 menstrual pads, 4 chips, 1 water, 1 cosmetic foundation. Further, Respondent admitted to a  
18 violation of company policy by using her discount card for other customers' purchases which  
19 would return monetary rewards to her for use at employer stores.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Drug Statute Violation)**

22 17. Respondent is subject to disciplinary action under section 4300, 4301, subdivision (j),  
23 for violating Health and Safety Code sections 11173, subdivision (a), and 11350, subdivision (a),  
24 and United States Code Service, title 21, section 844, on the grounds of unprofessional  
25 conduct, in that in or about January 2013 through July 17, 2013, while on duty as a Pharmacy  
26 technician, Respondent furnished Ambien 10mg to her husband without a valid prescription, was in  
27 possession of Ambien 10mg without a valid prescription, and obtained or procured Ambien 10mg  
28 by fraud, deceit, misrepresentation, or subterfuge; or by the concealment of a material fact.

1 Complainant refers to and by this reference incorporates the allegations set forth above in  
2 paragraph 16, inclusive, as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Pharmacy Law Violations)**

5 18. Respondent is subject to disciplinary action under section 4300, 4301, subdivision (o),  
6 for violating section 4059 and 4060, on the grounds of unprofessional conduct, in that in or about  
7 January 2013 through July 17, 2013, while on duty as a Pharmacy technician, Respondent was in  
8 possession of Ambien 10mg, a controlled substance and dangerous drug, without a valid  
9 prescription. Complainant refers to and by this reference incorporates the allegations set forth  
10 above in paragraph 16 and 17, inclusive, as though set forth fully.

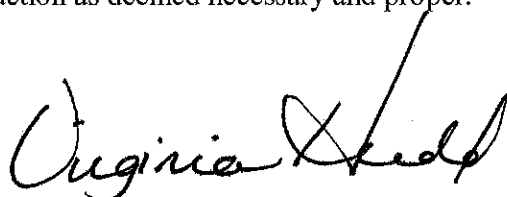
11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician License No. TCH 118757, issued to  
15 Susana Hernandez-Perez;
- 16 2. Ordering Susana Hernandez-Perez to pay the Board the reasonable costs of the  
17 investigation and enforcement of this case, pursuant to section 125.3; and,
- 18 3. Taking such other and further action as deemed necessary and proper.

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20  
21 DATED: \_\_\_\_\_

7/17/17



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

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