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

11 In the Matter of the Accusation Against:
12 **RICK SAGE AVENILLA QUERIJERO**
17805 Woodruff Ave., Apt. 5
13 Bellflower, CA 90706
14 Pharmacy Technician License No. TCH 138140
15 Respondent.

Case No. 5945

A C C U S A T I O N

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about January 9, 2014, the Board issued Pharmacy Technician License No.
22 TCH 138140 to Rick Sage Avenilla Querijero (Respondent). The Pharmacy Technician License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 January 31, 2018, unless renewed.

25 **JURISDICTION**

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

28 **STATUTORY PROVISIONS**

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

4 5. Section 493 states:

5 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
6 the department pursuant to law to deny an application for a license or to suspend or revoke a
7 license or otherwise take disciplinary action against a person who holds a license, upon the ground
8 that the applicant or the licensee has been convicted of a crime substantially related to the
9 qualifications, functions, and duties of the licensee in question, the record of conviction of the
10 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
11 and the board may inquire into the circumstances surrounding the commission of the crime in order
12 to fix the degree of discipline or to determine if the conviction is substantially related to the
13 qualifications, functions, and duties of the licensee in question.

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

16 7. Section 4300.1 states:

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

22 8. 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 issued by mistake. Unprofessional conduct shall include, but is
25 not limited to, any of the following:

26

27 "(g) Knowingly making or signing any certificate or other document that falsely
28 represents the existence or nonexistence of a state of facts.

1 “(h) The administering to oneself, of any controlled substance, or the use of any
2 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
3 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
4 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
5 the public the practice authorized by the license.

6

7 “(l) The conviction of a crime substantially related to the qualifications, functions, and
8 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
9 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
10 substances or of a violation of the statutes of this state regulating controlled substances or
11 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
12 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The
13 board may inquire into the circumstances surrounding the commission of the crime, in order to fix
14 the degree of discipline or, in the case of a conviction not involving controlled substances or
15 dangerous drugs, to determine if the conviction is of an offense substantially related to the
16 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a
17 conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of
18 this provision. The board may take action when the time for appeal has elapsed, or the judgment of
19 conviction has been affirmed on appeal or when an order granting probation is made suspending
20 the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
21 Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
22 setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. . . .”

23 REGULATORY PROVISION

24 9. California Code of Regulations, title 16, section 1770, states:

25 "For the purpose of denial, suspension, or revocation of a personal or facility license
26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
27 crime or act shall be considered substantially related to the qualifications, functions or duties of a
28 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

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

7 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

8 11. Alprazolam, a generic name for Xanax, is a Schedule IV controlled substance pursuant
9 to Health and Safety Code section 11057(d)(1), and a dangerous drug pursuant to section 4022.

10 12. Marijuana is a Schedule I controlled substance under State and federal law (Health &
11 Saf. Code § 11054 subd. (d)(13); and 21 U.S.C. § 812.), and a dangerous drug pursuant to section
12 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Convictions of Substantially Related Crimes)**

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

19 a. On or about February 19, 2014, after pleading nolo contendere, Respondent was
20 convicted of misdemeanor count of violating Penal Code section 261.5(c) [unlawful sexual
21 intercourse] in the criminal proceeding entitled *The People of the State of California v. Ricksage*
22 *Avenilla Querijero* (Super. Ct. L.A. County, 2014, No. 4BF00779). The Court sentenced
23 Respondent to eight days in jail, placed him on 36 months of probation, ordered him to complete
24 five days of community labor, ordered him to submit to an AIDS/HIV test, and ordered him to
25 stay away from victim C.H.

26 b. The circumstances underlying the conviction are that on or about February 16, 2014,
27 admittedly, after a night of partying, Respondent and two male friends picked-up an underage
28 female from her home for the sole reason of having consensual sexual relations, of which occurred

1 in Respondent's parked vehicle.

2 c. On or about April 21, 2016, after pleading nolo contendere Respondent was convicted
3 of violating Penal Code section 594(a) [vandalism] in the criminal proceeding entitled *The People*
4 *of the State of California v. Rick Sage Querijero* (Super. Ct. L.A. County, 2016, No. 6BL02541).
5 The Court placed Respondent on three years of probation, and ordered him to pay victim
6 restitution.

7 d. The circumstances underlying the conviction are that on or about January 21, 2016,
8 admittedly, Respondent was found drawing his artistic depiction of "Jimmy Hendrix" on a city
9 park's wall.

10 e. On or about June 30, 2016, after pleading nolo contendere, Respondent was convicted
11 of one misdemeanor count of violating Vehicle Code section 23152(e) [drive while under the
12 influence of drugs] in the criminal proceeding entitled *The People of the State of California v. Rick*
13 *Sage Querijero* (Super. Ct. Orange County, 2016, No. 16CM05309). The Court sentenced
14 Respondent to either ten days in jail or Cal/Trans, placed him on three years of probation, ordered
15 him to complete a Three-Month First-Offender Alcohol Program, and ordered him to complete
16 Victim Impact counseling.

17 f. The circumstances underlying the conviction are that on or about March 28, 2016,
18 admittedly, Respondent drove a vehicle while under the tested influence of marijuana and
19 Alprazolam, without a valid prescription.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Dangerous Use of Controlled Substances / Dangerous Drugs)**

22 14. Respondent is subject to disciplinary action under sections 4300, and 4301,
23 subdivision (h), on the grounds of unprofessional conduct, in that on or about March 28, 2016,
24 Respondent administered to himself marijuana and / or Alprazolam to the extent or in a manner as
25 to be dangerous or injurious to himself, or others. Complainant refers to and by this reference
26 incorporates the allegations set forth above in paragraph 13, paragraphs e and f, inclusive, as
27 though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(False License Renewal Application)**

3 15. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision
4 (g), on the grounds of unprofessional conduct, in that on or about January 12, 2016, Respondent
5 falsely represented the existence or nonexistence of a state of facts in his license renewal
6 application, when under penalty of perjury, he answered "No" to the following question:

7 "Since you last renewed your license, have you had any license disciplined by a
8 government agency or other disciplinary body, or, have you been convicted of any
9 crime in any state, the U.S.A. and its territories, military court, or a foreign county?

10 PLEASE READ INSTRUCTIONS BEFORE ANSWERING."

11 Complainant refers to and by this reference incorporates the allegations set forth above in
12 paragraph 13, inclusive, as though set forth fully.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician License No. TCH 138140, issued to
17 Rick Sage Avenilla Querijero
- 18 2. Ordering Rick Sage Avenilla Querijero to pay the Board the reasonable costs of the
19 investigation and enforcement of this case, pursuant to section 125.3; and,
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 9/22/17



23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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