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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 6084

13 **EDUARDO GARCIA**  
31844 Garlington St.  
Menifee, CA 92584

**ACCUSATION**

14 Pharmacy Technician Registration  
15 No. TCH 129221

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.

22 2. On or about December 31, 2012, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 129221 to Eduardo Garcia (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on February 28, 2018, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
28 Consumer Affairs, under the authority of the following laws.

1 4. Business and Professions Code section 4011 provides that “[t]he board shall  
2 administer and enforce this chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et  
3 seq.)] and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000)  
4 of the Health and Safety Code).”

5 5. Business and Professions Code section 4300, subdivision (a), provides that “[e]very  
6 license issued may be suspended or revoked.”

### 7 STATUTORY AND REGULATORY PROVISIONS

8 6. Business and Professions Code section 4036.5 defines “Pharmacist-in-charge” as “a  
9 pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager  
10 responsible for ensuring the pharmacy's compliance with all state and federal laws and  
11 regulations pertaining to the practice of pharmacy.”

12 7. Business and Professions Code section 4301 provides, in pertinent part:

13  
14 The board shall take action against any holder of a license who is guilty  
15 of unprofessional conduct or whose license has been issued by mistake.  
16 Unprofessional conduct shall include, but is not limited to, any of the  
17 following:

18 . . .  
19 (h) The administering to oneself, of any controlled substance,  
20 or the use of any dangerous drug or of alcoholic beverages to  
21 the extent or in a manner as to be dangerous or injurious to  
22 oneself, to a person holding a license under this chapter, or to  
23 any other person or to the public, or to the extent that the use  
24 impairs the ability of the person to conduct with safety to the  
25 public the practice authorized by the license. . . .

### 22 COST RECOVERY

23 8. Business and Professions Code section 125.3 states, in pertinent part, that the Board  
24 may request the administrative law judge to direct a licentiate found to have committed a violation  
25 or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
26 and enforcement of the case. Failure of the licentiate to comply subject the license to not being  
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
28 included in a stipulated settlement.

1 **DANGEROUS DRUG / CONTROLLED SUBSTANCES**

2 9. Benzodiazepine is a Schedule IV controlled substance pursuant to Health and Safety  
3 Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions  
4 Code section 4022.

5 10. Marijuana is a hallucinogenic Schedule I controlled substances under state and federal  
6 law as set forth in Health and Safety Code section 11054 subdivisions (d)(13) and (20) and United  
7 States Code of Regulations, title 21, section 812. Marijuana is also a dangerous drug as defined in  
8 Business and Professions Code section 4022.

9 **FACTUAL ALLEGATIONS**

10 11. At the time of the events set forth herein, Respondent was employed as a pharmacy  
11 technician at Loma Linda University Medical Center Murrieta (LLUMC-Murrieta), located at  
12 28089 Baxter Road, Murrieta, CA 92563. On September 29, 2016, LLUMC-Murrieta terminated  
13 Respondent's employment. The circumstances leading to termination are as follows: On  
14 September 26, 2016 at or around 1:00 p.m., Respondent arrived to LLUMC-Murrieta to begin his  
15 1:00 p.m. shift. He was assigned to compound Total Parenteral Nutrition in the IV Room. The  
16 lead technician observed that Respondent's eyes were glossy and his speech was slurred. At  
17 approximately 1:45 p.m., the lead technician communicated her concerns to the Pharmacist-in-  
18 Charge. Respondent had, by that point, disappeared from the pharmacy. At about 2:30 p.m.,  
19 Respondent returned and when the Pharmacist-in-Charge observed Respondent, he also believed  
20 Respondent to be impaired. Respondent was informed that he was being sent for a suspicious  
21 reasonable drug testing to which he consented. A urine sample was obtained from Respondent at  
22 or around 5:37 p.m. Respondent was advised not to return to work until he was notified of the  
23 results which came back positive for benzodiazepines and marijuana.

24 **CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct-Practice While Impaired)**

26 12. Respondent is subject to disciplinary action under Business and Professions Code  
27 section 4301, subdivision (h), in that Respondent practiced as a registered pharmacy technician  
28 while impaired. The circumstances are set forth in paragraph 11, which is incorporated herein as

1 though set forth fully.

2 **DISCIPLINARY CONSIDERATIONS**

3 13. To determine the degree of discipline, if any, to be imposed on Respondent,  
4 Complainant alleges that on or about December 12, 2013, the Board issued Citation no. CI 2012-  
5 57357 and a fine of \$2,000.00 to Respondent for violation of Business and Professions Code  
6 section 4301, subdivision (h). The basis for Citation no. CI 2012-57357 is that on or around  
7 January 10, 2014, after pleading guilty, Respondent was convicted of one misdemeanor count of  
8 violating Vehicle Code section 23152(b) [driving under the influence of alcohol with a blood  
9 alcohol content of 0.08% or more] in the criminal proceeding entitled *The People of the State of*  
10 *California v. Edward Solorio Garcia* (Super. Ct. Riverside County, 2013, No. RIM1311878). The  
11 Court placed Respondent on summary probation for 36 months, on terms and conditions.

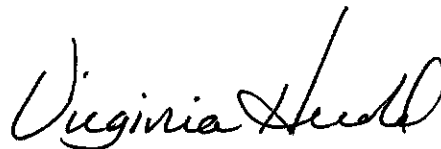
12 **PRAAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 129221,  
16 issued to Respondent Eduardo Garcia;
- 17 2. Ordering Respondent Eduardo Garcia to pay the Board of Pharmacy the reasonable  
18 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code  
19 section 125.3; and,
- 20 3. Taking such other and further action as deemed necessary and proper.

21  
22  
23 DATED: \_\_\_\_\_

9/22/17



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

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