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

11 In the Matter of the Accusation Against:

Case No. 2802

12 JOSE J. VASQUEZ
8526 Hatillo Ave.
Winnetka, CA 91306

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Pharmacy Technician Registration No. TCH
14 4455

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to
18 the above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board
21 of Pharmacy (Board). She brought this action solely in her official capacity and is represented
22 in this matter by Bill Lockyer, Attorney General of the State of California, by Kimberlee D.
23 King, Deputy Attorney General.

24 2. Respondent JOSE J. VASQUEZ Jose J. Vasquez (Respondent) is
25 representing himself in this proceeding and has chosen not to exercise his right to be
26 represented by counsel.

27 3. On or about February 5, 1993, the Board issued Pharmacy Technician
28 Registration No. TCH 4455 to JOSE J. VASQUEZ (Respondent). The Registration was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 2802 and
2 will expire on March 31, 2006, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2802 was filed before the Board, and is currently
5 pending against Respondent. The Accusation and all other statutorily required documents
6 were properly served on Respondent on December 17, 2004. Respondent timely filed his
7 Notice of Defense contesting the Accusation. A copy of Accusation No. 2802 is attached as
8 exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and
11 allegations in Accusation No. 2802. Respondent has also carefully read, and understands the
12 effects of this Stipulated Settlement and Disciplinary Order.

13 6. Respondent is fully aware of his legal rights in this matter, including
14 the right to a hearing on the charges and allegations in the Accusation; the right to be
15 represented by counsel at his own expense; the right to confront and cross-examine the
16 witnesses against him; the right to present evidence and to testify on his own behalf; the right
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of
18 documents; the right to reconsideration and court review of an adverse decision; and all other
19 rights accorded by the California Administrative Procedure Act and other applicable laws.

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives
21 up each and every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in
24 Accusation No. 2802.

25 9. Respondent agrees that his Pharmacy Technician Registration is subject
26 to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in
27 the Disciplinary Order below.

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CONTINGENCY

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2 10. Respondent understands that should he at any time after revocation of
3 licensure ever apply to the Board for reinstatement, he must meet all current California
4 requirements for licensure, including, but not limited to, meeting all current educational
5 requirements and taking and passing any written and/or practical examinations then required
6 by the Board.

7 11. It is agreed that Respondent is obligated to pay costs associated with the
8 board's investigation and enforcement pursuant to Business & Professions Code section
9 125.3, in the amount of \$2,000.00 (two thousand dollars). Respondent shall be responsible
10 for paying these costs should he petition for reinstatement of the license, reduction of the
11 penalty, or apply for another license from the Board and payment of such costs shall be one of
12 the conditions of reinstatement or licensure or reduction of the penalty.

13 12. Respondent further agrees that with adoption by the Board of this
14 Stipulation, respondent may not petition the Board for reinstatement of the license, nor may he
15 apply for any other license with the Board for three years after the effective date of this
16 decision.

17 13. It is understood by respondent that, in deciding whether to adopt this
18 Stipulation, the Board may receive oral and written communication from its staff and the
19 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
20 the Board of other persons from future participation in this of any other matter affecting
21 respondent. In the event this settlement is not adopted by the Board, the Stipulation will not
22 become effective and may not be used for any purpose, except for this paragraph, which shall
23 remain in effect.

24 14. The parties understand and agree that facsimile copies of this Stipulated
25 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
26 force and effect as the originals.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

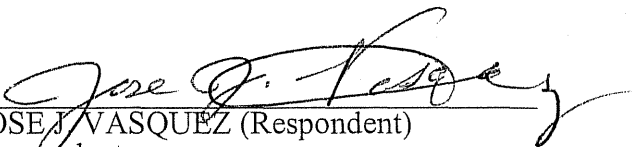
DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 4455 issued to Respondent JOSE J. VASQUEZ (Respondent) is revoked.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: January 25, 2005


JOSE J. VASQUEZ (Respondent)
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: _____.

BILL LOCKYER, Attorney General
of the State of California

KIMBERLEE D. KING
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

JOSE J. VASQUEZ
8526 Hatillo Ave.
Winnetka, CA 91306

Pharmacy Technician Registration No. TCH
4455

Respondent.

Case No. 2802

OAH No.

DECISION AND ORDER


The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, as its Decision in this matter.

This Decision shall become effective on March 30, 2005.

It is so ORDERED February 28, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2802

1 BILL LOCKYER, Attorney General
of the State of California
2 KIMBERLEE D. KING, State Bar No. 141813
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
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6 Attorneys for Complainant

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8

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

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11 In the Matter of the Accusation Against:	Case No. 2002
12 JOSE J. VASQUEZ	A C C U S A T I O N
13 8526 Hatillo Avenue	
14 Winnetka, CA 91306	
15 Pharmacy Technician Registration No. TCH 4455,	
16 Respondent.	

16

17 Complainant alleges:

18 PARTIES

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

22 2. On or about February 5, 1993, the Board of Pharmacy (Board) issued
23 Pharmacy Technician Registration No. TCH 4455 to Jose J. Vasquez (Respondent). The
24 registration was in full force and effect at all times relevant to the charges brought herein and will
25 expire on March 31, 2006, unless renewed.

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JURISDICTION

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

5 4. Section 4300 permits the Board to take disciplinary action to suspend or
6 revoke a license or permit.

7 5. Section 4301 states, in pertinent part:

8 "The board shall take action against any holder of a license who is guilty of
9 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
10 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
11 following:

12 ...

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

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

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

23 ...

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

26 ...

27 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or
28 abetting the violation of or conspiring to violate any provision or term of this chapter or of the

1 applicable federal and state laws and regulations governing pharmacy, including regulations
2 established by the board.

3 "(p) Actions or conduct that would have warranted denial of a license."

4 6. Section 4059, subdivision (a), states, in pertinent part: "A person may not
5 furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist,
6 optometrist, or veterinarian."

7 7. Section 4060 states, in pertinent part: "No person shall possess any
8 controlled substance, except that furnished to a person upon the prescription of a physician,
9 dentist, podiatrist, or veterinarian."

10 8. Health and Safety Code section 11377, subdivision (a), states, in pertinent
11 part:

12 "Except as authorized by law and as otherwise provided in subdivision (b) or
13 Section 11375, or in Article 7 (commencing with Section 4211) . . . of the Business and
14 Professions Code, every person who possesses any controlled substance which is classified in
15 Schedule III, IV, or V, and which is not a narcotic drug . . . unless upon the prescription of a
16 physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished
17 by imprisonment in a county jail for a period of not more than one year or in the state prison."

18 9. Health and Safety Code section 11170 states: "No person shall prescribe,
19 administer, or furnish a controlled substance for himself."

20 10. Health and Safety Code section 11173, subdivision (a), states:

21 "No person shall obtain or attempt to obtain controlled substances, or procure or
22 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
23 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

24 11. Section 118, subdivision (b) states:

25 "The suspension, expiration, or forfeiture by operation of law of a license issued
26 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
27 by order of a court of law, or its surrender without the written consent of the board, shall not,
28 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board

1 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
2 ground provided by law or to enter an order suspending or revoking the license or otherwise
3 taking disciplinary action against the licensee on any such ground."

4 12. Section 125.3, subdivision (a), states, in pertinent part:

5 "Except as otherwise provided by law, in any order issued in resolution of a
6 disciplinary proceeding before any board within the department . . . the board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations
8 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case."

10 13. DANGEROUS DRUGS/CONTROLLED SUBSTANCES

11 a. "Ambien," a brand name for zolpidem tartrate, a nonbarbiturate hypnotic,
12 is a Schedule IV controlled substance as designated by Health and Safety Code section
13 11057(d)(32), and is categorized as a dangerous drug pursuant to Business and Professions Code
14 section 4022.

15 b. "Ativan," a brand of lorazepam, a benzodiazepine derivative, is a Schedule
16 IV controlled substance as designated by Health and Safety Code section 11057(d)(16), and is
17 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

18 c. "Darvocet," a trade name for dextropropoxyphene or propoxyphene
19 hydrochloride, is designated as Schedule IV controlled substance by Health and Safety Code
20 section 11057(c)(2), and as a dangerous drug pursuant to Business and Professions Code section
21 4022.

22 d. "Librium," a brand name for chlordiazepoxide, is a Schedule IV controlled
23 substance as designated by Health and Safety Code section 11057(d)(5), and is categorized as a
24 dangerous drug pursuant to Business and Professions Code section 4022.

25 e. "Tylenol with Codeine #3," a brand name for Acetaminophen with
26 Codeine, 30 mg. with 500 mg. Acetaminophen, is a Schedule III controlled substance as
27 designated by Health and Safety Code section 11056(e)(2), and is categorized as a dangerous
28 drug pursuant to Business and Professions Code section 4022.

1 f. "Vicodin," a brand name for hydrocodone bitartrate with acetaminophen,
2 is a Schedule III controlled substance pursuant to Health and Safety Code Section 11056(e)(4),
3 and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

4 FIRST CAUSE FOR DISCIPLINE

5 (Commission of Act Involving Moral Turpitude, Dishonesty, Fraud or Deceit)

6 14. Respondent is subject to disciplinary action under Section 4300 and
7 Section 4301(f), in that between July 2003 and April 2004, Respondent took controlled
8 substances and/or dangerous drugs from his employer, Northridge Hospital Medical Center, for
9 his own personal use. The circumstances are as follows:

10 a. In or about April 2004, Respondent was employed at Northridge Hospital
11 Medical Center (Medical Center) as a Pharmacy Technician.

12 b. On or about April 9, 2004, Medical Center's pharmacist-in-charge, Tawny
13 Bui, noticed a discrepancy regarding controlled substances.

14 c. Ms. Bui conducted a detailed search and found that:

15 (1) On March 27, 2004, at 21:25, Respondent removed 10 Vicodin
16 tablets from the pharmacy Pyxis machine, intended for 1-East. The CSOT (Controlled
17 Substance Order and Transport sheets) and CSAR (24-Hour Controlled Substance
18 Administration Records) showed no record of the medication's delivery to or receipt by
19 1-East staff.

20 (2) On April 6, 2004, at 20:42, Respondent removed 10 Vicodin
21 tablets from the pharmacy Pyxis machine, intended for the Special Care Unit. The CSOT
22 and CSAR showed no record of the medication's delivery to or receipt by Special Care
23 Unit staff.

24 (3) On April 6, 2004, at 20:44, Respondent removed 10 Xanax 1 mg.
25 tablets from the pharmacy Pyxis machine, intended for Med/Surg 5. The CSOT, CSAR
26 and 5th Floor Pyxis showed no record of the medication's delivery to or receipt by
27 Med/Surg 5.

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1 d. On or about April 12, 2004, Respondent admitted to Medical Center
2 personnel Tawny Bui and Rashawn Woods that he had taken the Vicodin and Xanax tablets
3 described above in subparagraph (b) for his own personal use. Respondent denied taking
4 controlled substances at any other time. Respondent was suspended from work pending
5 completion of Medical Center's investigation.

6 e. On or about April 15, 2004, Northridge Hospital Medical Center prepared
7 a report entitled "Investigation on Possible Narcotic Diversion."

8 f. On or about May 28, 2004, Respondent admitted to the Board's
9 investigator that he had accessed the pharmacy Pyxis and removed Xanax, Vicodin and Ambien
10 (10 each), without authorization, which he did not deliver to the intended locations.

11 g. Subsequently, Northridge Hospital Medical Center provided the Board
12 with a report, entitled "Follow-Up Investigation on Narcotic Diversion - Jose Vasquez, TCH
13 4455," dated June 4, 2004. The report indicated that between August 14, 2003 and April 6,
14 2004, 227 units of controlled substances removed from the pharmacy Pyxis by Respondent were
15 unaccounted for, keep means, as follows:

<u>Date</u>	<u>Controlled Substance/Drug</u>	<u>Qty. Unaccounted For</u>
08/14/03	Ativan 1mg	10
09/12/03	Vicodin	10
10/04/03	Tylenol #3	5
10/18/03	Ambien 10 mg	10
10/24/03	Vicodin	10
10/25/03	Vicodin	20
11/07/03	Vicodin	10
11/12/03	Vicodin	10
12/13/03	Vicodin	10
12/25/03	Librium 25mg	6
12/25/03	Vicodin	6
12/30/03	Darvocet	30
01/16/04	Ativan 0.5 mg	10
01/16/04	Tylenol #3	50
03/27/04	Vicodin	10
04/06/04	Vicodin	10
04/06/04	Xanax 1mg	10
	Total	227

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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/13/04

P. J. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant