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

In the Matter of the Petition for Reconsideration Against: **JOE L. SOSA** P. O. BOX 3374 Manhattan Beach, CA 90266 Pharmacy Technician Registration No. TCH 32591 Respondent.	Case No. 2971 OAH No. L2006060342

DECISION AFTER RECONSIDERATION

The Board of Pharmacy hereby adopts the attached Proposed Decision dated October 3, 2006 as its decision in the above-entitled matter with the exception of the following:

Probation condition (20) titled "Notification of Departure" shall be amended as follows:

"If Respondent leaves California for a period greater than 24 hours, Respondent shall notify the Board verbally and in writing of the dates of departure and return, prior to leaving."

This Decision shall become effective on

IT IS SO ORDERED THIS 13th day of February 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

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

In the Matter of the Petition for Reconsideration Against: JOE L. SOSA P O BOX 3374 Manhattan Beach, CA 90266 Pharmacy Technician Registration No. TCH 32591 Respondent.	Case No. 2971 OAH No. L2006060342 **ORDER GRANTING RECONSIDERATION AND STAY ORDER**

The Board of Pharmacy having read and considered respondent's Petition for Reconsideration dated December 15, 2006, and good cause appearing, NOW THEREFORE IT IS ORDERED that Reconsideration is granted.

The order granting reconsideration is based on the Respondent's request for reconsideration of whether the following conditions should be reduced or eliminated:

- Probation Length
- Paragraph 17: Attend Substance Abuse Recovery Relapse Prevention and Support Groups
- Paragraph 18: Random Drug Screening
- Paragraph 20: Notification of Departure
- Paragraph 21: Abstain from Drugs and Alcohol Use

The board will decide the case itself upon all the pertinent parts, including the exhibits and written argument of the parties, without taking additional evidence. Written argument may be filed with this board on or before January 18, 2007.

A stay of execution of the Board of Pharmacy's decision effective January 4, 2007, is hereby ordered until the board renders its decision after reconsideration.

IT IS SO ORDERED this 3rd day of January, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

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

In the Matter of the Accusation Against: **JOE L.SOSA** P. O. BOX 3374 Manhattan Beach CA 90266 Pharmacy Technician Registration No. TCH 32591 Respondent.	Case No. 2971 OAH No. L2006060342

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as the decision in the above-entitled matter, except that, pursuant to the provisions of Government Code section 11517, subdivision (c)(2)(C), paragraph 11 of the ORDER, appearing on page 6 of the Proposed Decision, is hereby modified for technical reasons as follows:

11. Should Respondent, regardless of residency, for any reason cease practicing as a pharmacy technician or an exemptee in California, Respondent must notify the Board in writing within 10 days of cessation of practice or the resumption of practice. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three consecutive years.

The technical modification made above does not affect the factual or legal basis of the Proposed Decision, which shall become effective on January 4, 2007.

IT IS SO ORDERED this 5th day of December, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

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

In the Matter of the Accusation Against: **JOE L. SOSA** P.O. BOX 3374 Manhattan Beach, CA 90266 Pharmacy Technician Registration No. TCH 32591, Respondent.	Case No. 2971 OAH No. L2006060342

PROPOSED DECISION

This matter was heard by Eric Sawyer, Administrative Law Judge, Office of Administrative Hearings, State of California, on September 7, 2006, in Los Angeles.

Scott J. Harris, Deputy Attorney General, represented Complainant.

Jonathan Allen Klein, Esq., represented Respondent, who was also present.

Oral and documentary evidence was received and argument made. The record was closed and the matter submitted on September 7, 2006.

FACTUAL FINDINGS

1. The Accusation was brought by Patricia F. Harris, in her then official capacity as the Executive Officer of the Board of Pharmacy (Board). Complainant is Virginia K. Herold, who is now the Interim Executive Officer of the Board.

2. On March 10, 2000, the Board issued Pharmacy Technician Registration No. TCH 32591 to Respondent, which was in full force and effect at all times relevant and will expire on January 31, 2008, unless renewed.

3. On May 4, 2005, during a routine traffic stop, Respondent, a passenger in the subject vehicle, was found to be in possession of a controlled substance, Methamphetamine, which he admitted belonged to him.

4. Respondent candidly admitted while testifying in this matter that he had also used Methamphetamine once or twice before May 4, 2005.

5. With regard to the above-described traffic stop, Respondent was arrested and prosecuted for possession of a controlled substance. Court records from the criminal case were not presented. However, Respondent testified that he pled guilty to a misdemeanor crime, entry of judgment was deferred and he was placed on probation until December 2006. As a condition of probation, Respondent successfully completed a drug counseling program in January 2006. He is so far in compliance with the other terms and conditions of probation.

6. Respondent has no other criminal record.

7. It was not established that Respondent is addicted to Methamphetamine or any other narcotic or that he now has a problem with drugs or alcohol. Respondent's arrest was the result of what he readily acknowledges was a stupid mistake, when he was experimenting. He credibly testified that he has not since used any controlled substance. Respondent's credible testimony was corroborated by many facts. For example, he has taken and passed several drug tests since his arrest. Respondent successfully completed the drug counseling program as described above. He has worked as a pharmacy technician for several years without incident. Various supervisors from his last few jobs all testified credibly that Respondent had never appeared at work to be under the influence of any drug or alcohol.

8. It was not established that Respondent is at risk for stealing substances at work like psuedoephedrine that are used in the manufacture of Methamphetamine. As found above, Respondent was not proven to be addicted to Methamphetamine. Moreover, psuedoephedrine will soon only be available to consumers over-the-counter and thus subject to strict regulation, control and inventory by a supervising pharmacist. It would take a large amount of psuedoephedrine to make Methamphetamine, the absence of which would surely be quickly noticed by such a supervising pharmacist. For many years Respondent has had unencumbered access to psuedoephedrine without incident.

9. As discussed above, several of Respondent's supervisors from his last few jobs as a pharmacy technician testified and established as follows. Respondent is a competent pharmacy technician, who is reliable and trustworthy. He gets along well with customers. He likes his job and is easy to supervise. There has never been any suspicion of his diverting drugs at work. Respondent currently works at AD-RX, a division of ModernHealth. He is a Pharmacy Technician II, a position also known as a "Lead Technician." In that capacity, Respondent is not expected to actually fill prescriptions or handle drugs, but rather he is involved in other aspects of processing orders and the company's computer programs. Respondent is doing very well in his current position and is heading towards greater supervisory responsibilities. Two different employees of ModernHealth who now supervise Respondent both credibly testified that they have absolutely no concern with Respondent continuing to work as a pharmacy technician, even in light of his arrest.

10. It was established that Respondent recognizes the seriousness of his past misconduct and is remorseful about the events leading to his arrest.

11. Complainant established that costs in the amount of $ 5,334.75 were reasonably incurred in the investigation and prosecution of this matter.

LEGAL CONCLUSIONS

1. *Cause for Discipline* (Unprofessional Conduct). Respondent's license is subject to disciplinary action for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivisions (j) and (o),[1] in that Respondent was in possession of a controlled substance, Methamphetamine, in violation of state statutes regulating controlled substances and dangerous drugs, namely section 4060 and Health and Safety Code section 11377, subdivision (a). (Factual Findings 3-4.)

2A. *Disposition.* Since cause for discipline was established, the level of discipline must be determined. In reaching a decision on disciplining a license, the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (revised 1/2001). (Cal. Code Regs, tit. 16, § 1760.)

2B. The Board's Disciplinary Guidelines list 14 different factors to be considered in determining the level of discipline to be imposed. Those factors are applied to Respondent as follows. No actual harm was done to the public (factor 1) or to any consumer (factor 2). Respondent has no prior disciplinary record with the Board (factor 3). Respondent has received no prior warnings from the Board (factor 4). The current violation is comprised of one charge of unprofessional conduct, arising from a single incident (factor 5). Respondent's misconduct is deemed to have been serious but not severe (factor 6). The only mitigating evidence is that Respondent admitted to the police that the Methamphetamine found in the car was his (factor 7). Respondent presented sufficient evidence of rehabilitation, indicating that he has not since consumed controlled substances and is not addicted to them (factor 8). Respondent is in compliance with his criminal probation (factor 9). Respondent has just this one conviction, entry of which apparently has been deferred pending his completion of probation (factor 10). As a conviction has apparently not yet been entered, the factor regarding expungement of a conviction is not yet applicable (factor 11). Respondent's misconduct occurred 16 months ago (factor 12), and was the result of his intentional misconduct (factor 13), from which he derived no known financial benefit (factor 14).

2C. After considering the factual findings and legal conclusions above, and the application of the Board's disciplinary factors, a moderate level of discipline is warranted in this case. Respondent's use and possession of Methamphetamine is obviously a concern given his pharmacy technician license. However, Respondent established that his use of that drug was very limited and that he is not addicted to it or other controlled substances. He has established sufficient rehabilitation to indicate that he can be trusted to perform his licensed duties without being a danger to the public.

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[1] All further statutory references are to the Business and Professions Code unless otherwise noted.

2D. Nonetheless, Methamphetamine is commonly known to be a very dangerous and addictive drug. The fact that Respondent has been in possession of Methamphetamine more than once is sufficiently serious to justify the Category III level discipline recommended in the Disciplinary Guidelines for this type of misconduct. Since cause for discipline of Respondent's license involves a controlled substance, the five year probationary period recommended by the Disciplinary Guidelines is warranted, along with various terms and conditions intended to allow the Board to monitor and verify Respondent's rehabilitation and abstinence from drugs. A short suspension is also warranted, so as to allow Respondent time to prepare for the requirements of his probation and to make adjustments accordingly. The minimum three month suspension recommended by the Disciplinary Guidelines for a Category III violation is not warranted in this case. As it was not established that Respondent has an addiction to drugs, no purpose for such a lengthy suspension is apparent, other than to be punitive. (Factual Findings 3-10.)

3. *Costs.* In accordance with section 125.3, it was established that the reasonable costs of investigating and prosecuting this disciplinary matter were $ 5,334.75. (Factual Finding 11.)

ORDER

Pharmacy Technician Registration number TCH 32591, issued to Respondent Joe L. Sosa, is revoked; however, revocation is stayed and Respondent is placed on probation for FIVE years upon the following terms and conditions:

1. Certification Prior to Resuming Work

Respondent shall be suspended from working as a pharmacy technician until he or she is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the Board.

During suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Subject to the above restrictions, Respondent may continue to own or hold an interest in any entity licensed by the Board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order (e.g., see Condition number 16).

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

3. Reporting to the Board

Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

4. Interview with the Board

Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

5. Cooperation with Board Staff

Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

6. Notice to Employers

Respondent shall notify all present and prospective employers of the decision in case number 2971 and the terms, conditions and restrictions imposed on Respondent by the decision.

Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his or her employer to report to the Board in writing acknowledging the employer has read the decision in case number 2971.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the pharmacist-in-charge and/or owner at every pharmacy of the terms and conditions of the decision in case number 2971 in advance of the Respondent commencing work at each pharmacy. "Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician, whether the Respondent is considered an employee or independent contractor.

7. Reimbursement of Board Costs

Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $ 5,334.75. Respondent may make payments pursuant to a reasonable schedule of payments approved by the Board.

The filing of bankruptcy by Respondent shall not relieve Respondent of his or her responsibility to reimburse the Board its costs of investigation and prosecution.

8. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

9. Status of License

Respondent shall, at all times while on probation, maintain an active current technician registration/certification with the Board, including any period during which suspension or probation is tolled.

If Respondent's technician registration/certification expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, Respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

10. Notification of Employment/Mailing Address Change

Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule, if known. Respondent shall notify the Board in writing within 10 days of a change in name, mailing address or phone number.

11. Tolling of Probation

It is a violation of probation for Respondent to work less as a pharmacy technician than the number of hours per month required by the Business and Professions Code. Should Respondent, regardless of residency, for any reason cease practicing as a pharmacy technician or an exemptee in California, Respondent must notify the Board in writing within 10 days of cessation of practice or the resumption of the practice. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three consecutive years.

12. Violation of Probation

If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction, and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If a Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

13. Completion of Probation

Upon successful completion of probation, Respondent's technician registration will be fully restored.

14. License Surrender While on Probation/Suspension

Following the effective date of this decision, should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his or her license to the Board for surrender. The Board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, Respondent shall relinquish his or her pocket license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

15. Actual Suspension

As part of probation, Respondent is suspended from the duties of a pharmacy technician for 30 days, beginning on the effective date of this decision.

During said suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor

shall Respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Subject to the above restrictions, Respondent may continue to own or hold an interest in any entity licensed by the Board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

During suspension, Respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.

16. No Ownership of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board.

17. Attend Substance Abuse Recovery Relapse Prevention and Support Groups

Within 30 days of the effective date of this decision, Respondent shall begin regular attendance at a Board-approved recognized and established substance abuse recovery support group in California, (e.g., Alcoholic Anonymous, Narcotics Anonymous, Cocaine Anonymous, etc.). Respondent must attend at least one group meeting per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the first three years of probation.

18. Random Drug Screening

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the Board. At all times Respondent shall fully cooperate with the Board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by Respondent. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

19. Work Site Monitor

Within 10 days of completion of the suspension imposed by this Order, Respondent shall identify a work site monitor, for prior approval by the Board, who shall be responsible for supervising Respondent during working hours. The work site monitor shall report to the Board quarterly. Should the designated work site monitor determine at any time during the probationary period that Respondent has not maintained sobriety, he or she shall notify the Board immediately, either orally or in writing as directed. Should Respondent change employment, a new work site monitor must be designated, for prior approval by the Board, within 10 days of commencing new employment.

20. Notification of Departure

If Respondent leaves the geographic area for a period greater than 24 hours, Respondent shall notify the Board verbally and in writing of the dates of departure and return, prior to leaving.

21. Abstain from Drugs and Alcohol Use

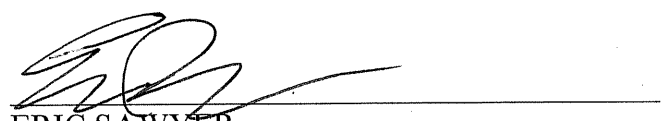
Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board, Respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the Respondent. Additionally, Respondent shall cause the prescribing practitioner to notify the Board in writing, indicating their awareness of the chemical dependency. Additionally, Respondent shall cause the prescribing physician to notify the Board in writing, indicating their awareness of the chemical dependency.

22. Tolling of Suspension

If Respondent leaves California to reside or practice outside this state, or for any period exceeding 10 days (including vacation), Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.

Respondent shall not act as a pharmacy technician upon returning to this state until notified by the Board that the period of suspension has been completed.

DATED: October 3, 2006



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

In the Matter of the Accusation Against: JOE L. SOSA P.O. Box 3374 Manhattan Beach, CA 90266 Pharmacy Technician Registration No. TCH 32591 Respondent.	Case No. 2971 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 10, 2000, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 32591 to Joe L. Sosa (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and expired on January 31, 2006, and has not been renewed.

JURISDICTION

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

references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 492 of the Code states:

> "Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest."

5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or revoke a license issued by the Board.

6. Section 4301 of the Code states:

> "The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:
>
> . . .
>
> "(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.
>
> . . .
>
> "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal or state laws and regulations governing pharmacy, including regulations established by the board."

7. Section 4060 of the Code states;

> "No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer."

\\\

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

> "Every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison."

9. Section 118, subdivision (b), of the Code provides that the expiration of license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be reviewed, restored, reissued or reinstated.

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

CONTROLLED SUBSTANCE

11. Methamphetamine is a Schedule II controlled substances as defined in Health and Safety Code section 11055 subdivision (d)(2) and is characterized as a dangerous drug pursuant to section 4022 of the Code.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

12. Respondent's license is subject to disciplinary action for unprofessional conduct under section 4301, subdivisions (j) and (o) of the Code, in that Respondent was in possession of a controlled substance, Methamphetamine, in violation of section 4060 of the Code and Health and Safety Code section 11377, subdivision (a). The circumstances are as follows:

a. On or about May 4, 2005, during a routine traffic stop, Respondent, a passenger in the subject vehicle, was found to be in possession of a controlled substance, Methamphetamine. The police officer conducted a search of the vehicle and found a satchel

containing Methamphetamine. Respondent admitted that the satchel belonged to him.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 32591, issued to Joe L. Sosa.

2. Ordering Joe L. Sosa to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/24/06

P. F. Harris

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

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