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8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3032

13 **SALLYANN MARIE ARIAS**

**DEFAULT DECISION**  
**AND ORDER**

14 2406 Tully Road  
15 Modesto, California 95350

[Gov. Code, §11520]

16 Pharmacy Technician Registration No. TCH  
39619

17 Respondent.

18 FINDINGS OF FACT

19 1. On or about March 22, 2007, Complainant Virginia K. Herold  
20 (Complainant), in her official capacity as the Executive Officer of the Board of Pharmacy, filed  
21 Accusation No. 3032 (Accusation) against Sallyann Marie Arias (Respondent) before the Board  
22 of Pharmacy (Board).

23 2. On or about September 25, 2001, the Board issued Pharmacy Technician  
24 Registration Number TCH 39619 (Registration) to Respondent. The Registration was in full  
25 force and effect at all times relevant to the charges brought herein and will expire on September  
26 30, 2007, unless renewed.

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1           3.       On or about April 9, 2007, Kasey Perkins-Arismende, an employee of the  
2 Department of Justice, served by Certified and First Class Mail a copy of the Accusation,  
3 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code  
4 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which  
5 was and is 2406 Tully Road, Modesto, California 95350. A copy of the Accusation, the related  
6 documents, and Declaration of Service are attached as exhibit A, and are incorporated herein by  
7 reference.

8           4.       Service of the Accusation was effective as a matter of law under the  
9 provisions of Government Code section 11505, subdivision (c).

10          5.       On or about April 16, 2007, the aforementioned documents were returned  
11 by the U.S. Postal Service. A copy of the envelope returned by the post office is attached as  
12 exhibit B, and is incorporated herein by reference.

13          6.       Government Code section 11506, subd. (c), states, in pertinent part:

14               The respondent shall be entitled to a hearing on the merits if the respondent files a  
15 notice of defense, and the notice shall be deemed a specific denial of all parts of the  
16 accusation not expressly admitted. Failure to file a notice of defense shall constitute a  
waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless  
grant a hearing. . . .

17          7.       Respondent failed to file a Notice of Defense within 15 days after service  
18 upon her of the Accusation, and therefore waived her right to a hearing on the merits of the  
19 Accusation.

20          8.       Government Code section 11520, subd. (a) states, in pertinent part:

21               If the respondent either fails to file a notice of defense or to appear at the hearing,  
22 the agency may take action based upon the respondent's express admissions or upon other  
evidence and affidavits may be used as evidence without any notice to respondent. . . .

23          9.       Pursuant to its authority under Government Code section 11520, the Board  
24 finds Respondent is in default. The Board will take action without further hearing and, based on  
25 Respondent's express admissions by way of default and the evidence before it, contained in  
26 exhibits A, and B, finds that the allegations in the Accusation are true.

27          10.      The total costs for investigation and enforcement are \$553.00 as of July  
28 30, 2007.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Sallyann Marie Arias  
3 has subjected her Pharmacy Technician Registration Number TCH 39619 to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of  
5 Service are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Board is authorized to revoke Respondent's Registration based upon  
8 the following violations alleged in the Accusation:

9 a. Respondent violated Business and Professions Code section 4301,  
10 subdivision (f) in that Respondent committed an act involving moral turpitude,  
11 dishonesty, fraud, deceit or corruption. More specifically, on or about November 29,  
12 2005, in the case entitled the *People v. Sallyann Marie Arias* (Super. Ct., Stanislaus  
13 County, 2005, No. 1100181), Respondent plead guilty to one count of violating Health  
14 and Safety Code section 11377, subdivision (a), [possession of a controlled substance] a  
15 misdemeanor, and was convicted.

16 b. Respondent violated Business and Professions Code section 4301,  
17 subdivision (j) in that the circumstances detailed above indicate that Respondent violated  
18 Code section 4060 and Health and Safety Code section 11377.

19 c. Respondent violated Business and Professions Code section 4031,  
20 subdivision (l) in that the circumstances detailed above indicate that Respondent was  
21 convicted of a crime substantially related to the qualifications, functions, and duties of a  
22 licensee under Chapter 9, Division 2 of the Business and Professions Code.

23 d. Respondent violated Business and Professions Code section 4301,  
24 subdivision (o) in that the circumstances detailed above indicate that Respondent violated  
25 Business and Professions Code section 4060.

26 e. Respondent violated Business and Professions Code section 4301,  
27 subdivision (p) in that the circumstances detailed above indicate that Respondent  
28 committed acts that would have warranted denial of a license.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration Number TCH 39619, heretofore issued to Respondent Sallyann Marie Arias, is revoked.

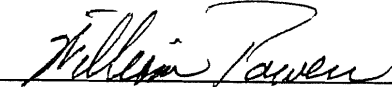
Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on October 5, 2007.

It is so ORDERED September 5, 2007

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

10361595.wpd  
DOJ docket number:SA2006102705

By   
WILLIAM POWERS  
Board President

Attachments:

- Exhibit A: Accusation No. 3032, Related Documents, and Declaration of Service
- Exhibit B: Copy of Envelope Returned by Post Office

Exhibit A  
Accusation No. 3032,  
Related Documents and Declaration of Service

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
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9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3032

13 **SALLYANN MARIE ARIAS**  
2406 Tully Road  
14 Modesto, California 95350

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

15 Pharmacy Technician Registration No. TCH  
39619

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

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

23 2. On or about September 25, 2001, the Board issued Pharmacy Technician  
24 Registration Number TCH 39619 to Sallyann Marie Arias (Respondent). The License  
25 was in full force and effect at all times relevant to the charges brought herein and will expire  
26 on September 30, 2007, unless renewed.

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JURISDICTION

1  
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.     Code section 4300 states:

6           (a) Every license issued may be suspended or revoked.

7           (b) The board shall discipline the holder of any license issued by the board,  
8 whose default has been entered or whose case has been heard by the board and  
9 found guilty, by any of the following methods:

10           (1) Suspending judgment.

11           (2) Placing him or her upon probation.

12           (3) Suspending his or her right to practice for a period not  
13 exceeding one year.

14           (4) Revoking his or her license.

15           (5) Taking any other action in relation to disciplining him or her as  
16 the board in its discretion may deem proper.

17           (c) The board may refuse a license to any applicant guilty of  
18 unprofessional conduct. . . .

19           . . . .

20           (e) The proceedings under this article shall be conducted in accordance  
21 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
22 Government Code, and the board shall have all the powers granted therein. The  
23 action shall be final, except that the propriety of the action is subject to review by  
24 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

25           5.     Code section 4301 states:

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

          . . . .

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

          . . . .

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

          . . . .

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

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(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 and state laws and regulations governing  
pharmacy, including regulations established by the board.

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

6. Code section 4060 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.

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

7. Health and Safety Code section 11377 states:

(a) Except as authorized by law and as otherwise provided in subdivision  
(b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter  
9 of Division 2 of the Business and Professions Code, every person who possesses  
any controlled substance which is (1) classified in Schedule III, IV, or V, and



1 which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054,  
2 except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in  
3 paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
4 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e),  
5 or (f) of Section 11055, unless upon the prescription of a physician, dentist,  
6 podiatrist, or veterinarian, licensed to practice in this state, shall be punished by  
7 imprisonment in a county jail for a period of not more than one year or in the state  
8 prison.

9 (b)(1) Any person who violates subdivision (a) by unlawfully possessing a  
10 controlled substance specified in subdivision (f) of Section 11056, and who has  
11 not previously been convicted of a violation involving a controlled substance  
12 specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

13 (2) Any person who violates subdivision (a) by unlawfully possessing a  
14 controlled substance specified in subdivision (g) of Section 11056 is guilty of a  
15 misdemeanor.

16 (c) In addition to any fine assessed under subdivision (b), the judge may  
17 assess a fine not to exceed seventy dollars (\$70) against any person who violates  
18 subdivision (a), with the proceeds of this fine to be used in accordance with  
19 Section 1463.23 of the Penal Code. The court shall, however, take into  
20 consideration the defendant's ability to pay, and no defendant shall be denied  
21 probation because of his or her inability to pay the fine permitted under this  
22 subdivision.

23 8. Code section 125.3 states, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licentiate found to have committed a violation or violations  
25 of the licensing act to pay a sum not to exceed the reasonable-costs of the investigation and  
26 enforcement of the case.

#### 27 FIRST CAUSE FOR DISCIPLINE

28 (Unprofessional Conduct - Moral Turpitude)

9 Respondent is subject to disciplinary action under Code section 4301,  
10 subdivision (f) in that Respondent committed an act involving moral turpitude, dishonesty, fraud,  
11 deceit or corruption. The circumstances are as follows:

12 10. On or about November 2, 2005, Respondent was arrested in Modesto,  
13 California by the Modesto Police Department for violating Health and Safety Code section  
14 11377, subdivision (a) [possession of a controlled substance] and, Health and Safety Code  
15 section 11364 [possession of controlled substance paraphernalia]. Respondent was arrested for  
16 being in possession of methamphetamine and methamphetamine paraphernalia. On or about  
17 November 4, 2005, a criminal complaint was filed against Respondent in the case entitled the

1 *People v. Sallyann Marie Arias* (Super. Ct., Stanislaus County, 2005, No. 1100181), charging  
2 Respondent with violating Health and Safety Code section 11377, subdivision (a). On or about  
3 November 29, 2005, Respondent plead guilty to one count of violating Health and Safety Code  
4 section 11377, subdivision (a), a misdemeanor, and was convicted.

5 SECOND CAUSE FOR DISCIPLINE

6 (Unprofessional Conduct - Violation of Controlled Substances or Dangerous Drugs Statutes)

7 11. Respondent is subject to disciplinary action under Code section 4301,  
8 subdivision (j) in that the circumstances detailed above in paragraph 10 indicate that Respondent  
9 violated Code section 4060 and Health and Safety Code section 11377.

10 THIRD CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct - Conviction of Crime)

12 12. Respondent is subject to disciplinary action under Code section 4031,  
13 subdivision (l) in that the circumstances detailed above in paragraph 10 indicate that Respondent  
14 was convicted of a crime substantially related to the qualifications, functions, and duties of a  
15 licensee under Chapter 9, Division 2 of the Code.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Violation of Pharmacy Laws)

18 13. Respondent is subject to disciplinary action under Code section 4301,  
19 subdivision (o) in that the circumstances detailed above in paragraph 10 indicate that Respondent  
20 violated Code section 4060.

21 FIFTH CAUSE FOR DISCIPLINE

22 (Actions that would have warranted denial of a license)

23 14. Respondent is subject to disciplinary action under Code section 4301,  
24 subdivision (p) in that the circumstances detailed above in paragraph 10 indicate that  
25 Respondent committed acts that would have warranted denial of a license.

26 ///

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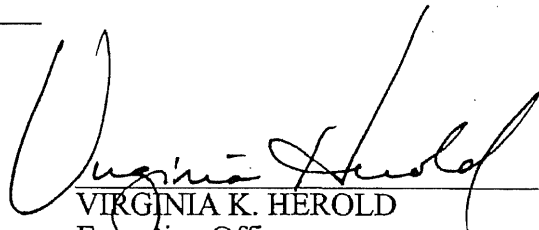
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 39619, issued to Sallyann Marie Arias.
2. Ordering Sallyann Marie Arias to pay the Board 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: 3/22/07

  
\_\_\_\_\_  
VIRGINIA K. HEROLD  
Executive Officer  
Board of Pharmacy  
State of California  
Complainant

SA2006102705  
10319880.wpd

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN, State Bar No. 193338  
Deputy Attorney General  
4 California Department of Justice  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5341  
Facsimile: (916) 327-8643  
7

Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3032

12 SALLYANN MARIE ARIAS

**STATEMENT TO RESPONDENT**

13 Respondent.

[Gov. Code §§ 11504, 11505(b)]

14  
15 TO RESPONDENT:

16 Enclosed is a copy of the Accusation that has been filed with the Board of  
17 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is delivered  
19 or mailed to the Board, represented by Deputy Attorney General Geoffrey S. Allen, within fifteen  
20 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will  
21 be deemed to have waived your right to a hearing in this matter and the Board may proceed upon  
22 the Accusation without a hearing and may take action thereon as provided by law.

23 The request for hearing may be made by delivering or mailing one of the enclosed  
24 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided  
25 in section 11506 of the Government Code, to

26 **Geoffrey S. Allen**  
**Deputy Attorney General**  
27 **1300 I Street, Suite 125**  
**P.O. Box 944255**  
28 **Sacramento, California 94244-2550.**

1           You may, but need not, be represented by counsel at any or all stages of these  
2 proceedings.

3           The enclosed Notice of Defense, if signed and filed with the Board, shall be  
4 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any  
5 objection to the form of the Accusation unless you file a further Notice of Defense as provided in  
6 section 11506 of the Government Code within fifteen (15) days after service of the Accusation  
7 on you.

8           If you file any Notice of Defense within the time permitted, a hearing will be held  
9 on the charges made in the Accusation.

10           The hearing may be postponed for good cause. If you have good cause, you are  
11 obliged to notify the Office of Administrative Hearings, Attn: General Jurisdiction, 2349  
12 Gateway Oaks, Suite 200, Sacramento, CA 95833-4231, within ten (10) working days after you  
13 discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10)  
14 days will deprive you of a postponement.

15           Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are  
16 enclosed.

17           If you desire the names and addresses of witnesses or an opportunity to inspect  
18 and copy the items mentioned in section 11507.6 of the Government Code in the possession,  
19 custody or control of the Board you may send a Request for Discovery to the above designated  
20 Deputy Attorney General.

21                           **NOTICE REGARDING STIPULATED SETTLEMENTS**

22           It may be possible to avoid the time, expense and uncertainties involved in an  
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated  
24 settlement is a binding written agreement between you and the government regarding the matters  
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the  
26 Board of Pharmacy but, once approved, it would be incorporated into a final order.

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Any stipulation must be consistent with the Board's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the Board's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Geoffrey S. Allen at the earliest opportunity.

DATED: 4/9/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

  
\_\_\_\_\_  
GEOFFREY S. ALLEN  
Deputy Attorney General  
Attorneys for Complainant

Accus Pcket.wpd

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

In the Matter of the Accusation Against:

SALLYANN MARIE ARIAS

Respondent.

Case No. 3032

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: \_\_\_\_\_

Respondent's Name \_\_\_\_\_

Respondent's Signature \_\_\_\_\_

Respondent's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Respondent's Telephone Number \_\_\_\_\_

**Check appropriate box:**

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone Number \_\_\_\_\_

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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

In the Matter of the Accusation Against:

SALLYANN MARIE ARIAS

Respondent.

Case No. 3032

**NOTICE OF DEFENSE**

[Gov. Code §§ 11505 and 11506]

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I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: \_\_\_\_\_

Respondent's Name \_\_\_\_\_

Respondent's Signature \_\_\_\_\_

Respondent's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Respondent's Telephone Number \_\_\_\_\_

**Check appropriate box:**

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name \_\_\_\_\_

Counsel's Mailing Address \_\_\_\_\_

City, State and Zip Code \_\_\_\_\_

Counsel's Telephone Number \_\_\_\_\_

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.



1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN, State Bar No. 193338  
Deputy Attorney General  
4 California Department of Justice  
1300 I Street, Suite 125  
5 P.O. Box 944255  
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3032

12 SALLYANN MARIE ARIAS

**REQUEST FOR DISCOVERY**

13 Respondent.

[Gov. Code § 11507.6]

14  
15 TO RESPONDENT:

16 Under section 11507.6 of the Government Code of the State of California, parties  
17 to an administrative hearing, including the Complainant, are entitled to certain information  
18 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the  
19 Government Code concerning such rights is included among the papers served.

20  
21 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU  
22 ARE HEREBY REQUESTED TO:

- 23 1. Provide the names and addresses of witnesses to the extent known to the  
24 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and  
25 2. Provide an opportunity for the Complainant to inspect and make a copy of any of  
26 the following in the possession or custody or under control of the Respondent:  
27 a. A statement of a person, other than the Respondent, named in the initial  
28 administrative pleading, or in any additional pleading, when it is claimed that the act or

1 omission of the Respondent as to this person is the basis for the administrative  
2 proceeding;

3 b. A statement pertaining to the subject matter of the proceeding made by any  
4 party to another party or persons;

5 c. Statements of witnesses then proposed to be called by the Respondent and  
6 of other persons having personal knowledge of the acts, omissions or events which are the  
7 basis for the proceeding, not included in (a) or (b) above;

8 d. All writings, including but not limited to reports of mental, physical and  
9 blood examinations and things which the Respondent now proposes to offer in evidence;

10 e. Any other writing or thing which is relevant and which would be  
11 admissible in evidence, including but not limited to, any patient or hospital records  
12 pertaining to the persons named in the pleading;

13 f. Investigative reports made by or on behalf of the Respondent pertaining to  
14 the subject matter of the proceeding, to the extent that these reports (1) contain the names  
15 and addresses of witnesses or of persons having personal knowledge of the acts,  
16 omissions or events which are the basis for the proceeding, or (2) reflect matters  
17 perceived by the investigator in the course of his or her investigation, or (3) contain or  
18 include by attachment any statement or writing described in (a) to (e), inclusive, or  
19 summary thereof.

20 For the purpose of this Request for Discovery, "statements" include written  
21 statements by the person, signed, or otherwise authenticated by him or her, stenographic,  
22 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,  
23 and written reports or summaries of these oral statements.

24  
25 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for  
26 Discovery should be deemed to authorize the inspection or copying of any writing or thing which  
27 is privileged from disclosure by law or otherwise made confidential or protected as attorney's  
28 work product.

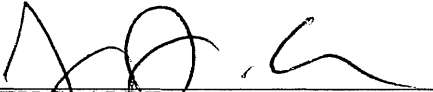
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Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Accusation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: 4/9/07

EDMUND G. BROWN JR., Attorney General  
of the State of California



\_\_\_\_\_  
GEOFFREY S. ALLEN  
Deputy Attorney General  
Attorneys for Complainant

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**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7  
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

**SECTION 11507.5: Exclusivity of discovery provisions**

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

**SECTION 11507.6: Request for discovery**

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

## **SECTION 11507.7: Petition to compel discovery; Order; Sanctions**

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

\*\*\*\*\*

**DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL**  
(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: SALLYANN M. ARIAS**

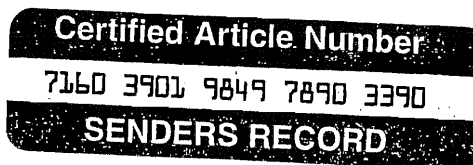
Case No.: **3032**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On April 9, 2007, I served the attached **Statement to Respondent, Accusation, Notice of Defense (2), Request for Discovery and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Statement to Respondent, Accusation, Notice of Defense (2), Request for Discovery and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

SallyAnn M. Arias  
2406 Tully Road  
Modesto, CA 95350



I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 9, 2007, at Sacramento, California.

Kasey P. Arismende  
Declarant

*Kasey P. Arismende*  
Signature

10333734.wpd

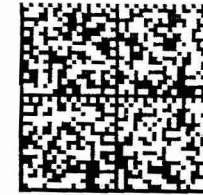
cc: Virginia Herold, Board of Pharmacy

Exhibit B  
Copy of Envelope Returned by Post Office



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RETURN RECEIPT REQUESTED



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Mailed From 95814

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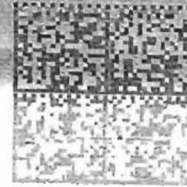
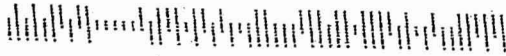
STATE OF CALIFORNIA  
DEPARTMENT OF JUSTICE  
OFFICE OF ATTORNEY GENERAL  
P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

Ann M. Arias  
2400 [redacted] Road  
Modesto, CA [redacted]

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P.O. BOX 944255  
SACRAMENTO, CA 94244-2550

ATTEMPTED NOT KNOWN

SallyAnn M. Arias  
2406 Tully Road  
Modesto, CA 95350

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