

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

In the Matter of the Accusation Against:

Case No. 3776

**SAMANTHA RODRIGUEZ
828 S. Herbert Avenue
Los Angeles, CA 90023**

**Pharmacy Technician Registration No. TCH
70934**

Respondent.

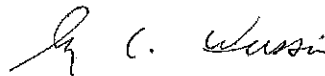
DECISION AND ORDER

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

This decision shall become effective on October 22, 2012.

It is so ORDERED on September 21, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3776

11 **SAMANTHA RODRIGUEZ**
12 **828 S. Herbert Avenue**
13 **Los Angeles, CA 90023**

OAH No. L-2011110964

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Pharmacy Technician Registration No. TCH**
15 **70934**

16 Respondent.

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

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Heather Hua, Deputy Attorney General.

24 2. Samantha Rodriguez (Respondent) is representing herself in this proceeding and has
25 chosen not to exercise her right to be represented by counsel.

26 3. On or about August 9, 2006, the Board of Pharmacy issued Pharmacy Technician
27 Registration No. TCH 70934 to Respondent. The Pharmacy Technician Registration was in full
28

1 force and effect at all times relevant to the charges brought in Accusation No. 3776 and will
2 expire on December 31, 2013, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3776 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on May 12, 2011.
7 Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 3776 is attached as Exhibit A and incorporated herein by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 3776. Respondent has also carefully read, and understands the effects of this
13 Stipulated Settlement and Disciplinary Order.

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

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

23 **CULPABILITY**

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 3776.

26 10. Respondent agrees that her Pharmacy Technician Registration is subject to discipline
27 and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary
28 Order below.

1 CONTINGENCY

2 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
6 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
7 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
8 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
9 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
10 not be disqualified from further action by having considered this matter.

11 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
12 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
13 effect as the originals.

14 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing executed by an authorized representative of each of the parties.

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

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 70934 issued
25 to Samantha Rodriguez (Respondent) is revoked. However, the revocation is stayed and
26 Respondent is placed on probation for five (5) years on the following terms and conditions.

27 **1. Certification Prior to Resuming Work**

28 Respondent shall be automatically suspended from working as a pharmacy technician until

1 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
2 satisfactory proof of certification to the board. Respondent shall not resume working as a
3 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
4 year shall be considered a violation of probation. Respondent shall not resume working as a
5 pharmacy technician until notified by the board.

6 During suspension, Respondent shall not enter any pharmacy area or any portion of any
7 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
8 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
9 devices or controlled substances are maintained. Respondent shall not do any act involving drug
10 selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent
11 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
12 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
13 substances. Respondent shall not resume work until notified by the board.

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

17 Failure to comply with this suspension shall be considered a violation of probation.

18 **2. Obey All Laws**

19 Respondent shall obey all state and federal laws and regulations.

20 Respondent shall report any of the following occurrences to the board, in writing, within
21 seventy-two (72) hours of such occurrence:

- 22 an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 a conviction of any crime
- 28 discipline, citation, or other administrative action filed by any state or federal agency

1 which involves Respondent's Pharmacy Technician Registration or which is related
2 to the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
3 billing, or charging for any drug, device or controlled substance.

4 Failure to timely report any such occurrence shall be considered a violation of probation.

5 **3. Report to the Board**

6 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
7 designee. The report shall be made either in person or in writing, as directed. Among other
8 requirements, Respondent shall state in each report under penalty of perjury whether there has
9 been compliance with all the terms and conditions of probation. Failure to submit timely reports
10 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
11 in submission of reports as directed may be added to the total period of probation. Moreover, if
12 the final probation report is not made as directed, probation shall be automatically extended until
13 such time as the final report is made and accepted by the board.

14 **4. Interview with the Board**

15 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
16 with the board or its designee, at such intervals and locations as are determined by the board or its
17 designee. Failure to appear for any scheduled interview without prior notification to board staff,
18 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
19 the period of probation, shall be considered a violation of probation.

20 **5. Cooperate with Board Staff**

21 Respondent shall cooperate with the board's inspection program and with the board's
22 monitoring and investigation of Respondent's compliance with the terms and conditions of her
23 probation. Failure to cooperate shall be considered a violation of probation.

24 **6. Notice to Employers**

25 During the period of probation, Respondent shall notify all present and prospective
26 employers of the decision in case number 3776 and the terms, conditions and restrictions imposed
27 on Respondent by the decision, as follows:

28 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of

1 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
2 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
3 tenure of employment) and owner to report to the board in writing acknowledging that the listed
4 individual(s) has/have read the decision in case number 3776 and the terms and conditions
5 imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
6 supervisor(s) submit timely acknowledgement(s) to the board.

7 If Respondent works for or is employed by or through a pharmacy employment service,
8 Respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
9 of the terms and conditions of the decision in Accusation case number 3776 in advance of the
10 Respondent commencing work at each pharmacy. A record of this notification must be provided
11 to the board upon request.

12 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
13 (15) days of Respondent undertaking any new employment by or through a pharmacy
14 employment service, Respondent shall cause her direct supervisor with the pharmacy
15 employment service to report to the board in writing acknowledging that she has read the decision
16 in case number 3776 and the terms and conditions imposed thereby. It shall be Respondent's
17 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
18 acknowledgment(s) to the board.

19 Failure to timely notify present or prospective employer(s) or to cause that/those
20 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
21 probation.

22 "Employment" within the meaning of this provision shall include any full-time,
23 part-time, temporary or relief service or pharmacy management service as a pharmacy
24 technician or in any position for which a pharmacy technician license is a requirement
25 or criterion for employment, whether the Respondent is considered an employee,
26 independent contractor or volunteer.

27 **7. Reimbursement of Board Costs**

28

1 As a condition precedent to successful completion of probation, Respondent shall pay to the
2 board its costs of investigation and prosecution in the amount four thousand five hundred fifty-
3 two dollars (\$4,552.00). Respondent shall coordinate a payment schedule with the Board. There
4 shall be no deviation from this schedule absent prior written approval by the board or its designee.
5 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

6 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
7 to reimburse the board its costs of investigation and prosecution.

8 **8. Probation Monitoring Costs**

9 Respondent shall pay any costs associated with probation monitoring as determined by the
10 board each and every year of probation. Such costs shall be payable to the board on a schedule as
11 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
12 be considered a violation of probation.

13 **9. Status of License**

14 Respondent shall, at all times while on probation, maintain an active, current pharmacy
15 technician license with the board, including any period during which suspension or probation is
16 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

17 If Respondent's pharmacy technician license expires or is cancelled by operation of law or
18 otherwise at any time during the period of probation, including any extensions thereof due to
19 tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all
20 terms and conditions of this probation not previously satisfied.

21 **10. License Surrender While on Probation/Suspension**

22 Following the effective date of this decision, should Respondent cease work due to
23 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
24 Respondent may tender her pharmacy technician license to the board for surrender. The board or
25 its designee shall have the discretion whether to grant the request for surrender or take any other
26 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
27 license, Respondent will no longer be subject to the terms and conditions of probation. This
28 surrender constitutes a record of discipline and shall become a part of the Respondent's license

1 history with the board.

2 Upon acceptance of the surrender, Respondent shall relinquish her pharmacy technician
3 license to the board within ten (10) days of notification by the board that the surrender is
4 accepted. Respondent may not reapply for any license, permit, or registration from the board for
5 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
6 applicable to the license sought as of the date the application for that license is submitted to the
7 board.

8 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
9 **Employment**

10 Respondent shall notify the board in writing within ten (10) days of any change of
11 employment. Said notification shall include the reasons for leaving, the address of the new
12 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
13 shall further notify the board in writing within ten (10) days of a change in name, residence
14 address and mailing address, or phone number.

15 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
16 phone number(s) shall be considered a violation of probation.

17 **12. Tolling of Probation**

18 Except during periods of suspension, Respondent shall, at all times while on probation, be
19 employed as a pharmacy technician in California for a minimum of forty (40) hours per calendar
20 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
21 the period of probation shall be extended by one month for each month during which this
22 minimum is not met. During any such period of tolling of probation, Respondent must
23 nonetheless comply with all terms and conditions of probation.

24 Should Respondent, regardless of residency, for any reason (including vacation) cease
25 working as a pharmacy technician for a minimum of forty (40) hours per calendar month in
26 California, Respondent must notify the board in writing within ten (10) days of cessation of work
27 and must further notify the board in writing within ten (10) days of the resumption of the work.
28 Any failure to provide such notification(s) shall be considered a violation of probation.

1 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
2 provisions of this condition for a total period, counting consecutive and non-consecutive months,
3 exceeding thirty-six (36) months.

4 "Cessation of work" means calendar month during which Respondent is not
5 working for at least 40 hours as a pharmacy technician, as defined in Business and
6 Professions Code section 4115. "Resumption of work" means any calendar month
7 during which Respondent is working as a pharmacy technician for at least 40 hours as
8 a pharmacy technician as defined by Business and Professions Code section 4115.

9 **13. Violation of Probation**

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

15 If Respondent violates probation in any respect, the board, after giving Respondent notice
16 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
17 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
18 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
19 a petition to revoke probation or an accusation is filed against Respondent during probation, the
20 board shall have continuing jurisdiction, and the period of probation shall be automatically
21 extended until the petition to revoke probation or accusation is heard and decided.

22 **14. Completion of Probation**

23 Upon written notice by the board indicating successful completion of probation,
24 Respondent's pharmacy technician license will be fully restored.

25 **15. No Ownership of Licensed Premises**

26 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
28 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell

1 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
2 days following the effective date of this decision and shall immediately thereafter provide written
3 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
4 documentation thereof shall be considered a violation of probation.

5 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
6 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
7 business, firm, partnership, or corporation licensed by the board. If Respondent currently owns or
8 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
9 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
10 or hereinafter licensed by the board, Respondent may continue to serve in such capacity or hold
11 that interest, but only to the extent of that position or interest as of the effective of this decision.
12 Violation of this restriction shall be considered a violation of probation.

13 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

14 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular
15 attendance at a recognized and established substance abuse recovery support group in California,
16 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
17 or its designee. Respondent must attend at least one group meeting per week unless otherwise
18 directed by the board or its designee. Respondent shall continue regular attendance and submit
19 signed and dated documentation confirming attendance with each quarterly report for the duration
20 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
21 probation.

22 **17. Random Drug Screening**

23 Respondent, at her own expense, shall participate in random testing, including but not
24 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
25 screening program as directed by the board or its designee. Respondent may be required to
26 participate in testing for the entire probation period and the frequency of testing will be
27 determined by the board or its designee. At all times Respondent shall fully cooperate with the
28 board or its designee, and shall, when directed, submit to such tests and samples for the detection

1 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
2 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
3 of probation. Upon request of the board or its designee, Respondent shall provide documentation
4 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
5 a necessary part of the treatment of the Respondent. Failure to timely provide such
6 documentation shall be considered a violation of probation. Any confirmed positive test for
7 alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented
8 medical treatment shall be considered a violation of probation and shall result in the automatic
9 suspension of work by Respondent. Respondent may not resume work as a pharmacy technician
10 until notified by the board in writing.

11 During suspension, Respondent shall not enter any pharmacy area or any portion of or any
12 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
13 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
14 devices or controlled substances are maintained. Respondent shall not do any act involving drug
15 selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent
16 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
17 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
18 substances. Respondent shall not resume work until notified by the board.

19 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
20 Subject to the above restrictions, Respondent may continue to own or hold an interest in any
21 licensed premises in which she holds an interest at the time this decision becomes effective unless
22 otherwise specified in this order.

23 Failure to comply with this suspension shall be considered a violation of probation.

24 **18. Notification of Departure**

25 Prior to leaving the probationary geographic area designated by the board or its designee for
26 a period greater than twenty-four (24) hours, Respondent shall notify the board verbally and in
27 writing of the dates of departure and return. Failure to comply with this provision shall be
28 considered a violation of probation.

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19. 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 or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that she is not in the same physical location as individuals who are using illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

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 of Pharmacy.

DATED: _____ *signature page attached*
SAMANTHA RODRIGUEZ
Respondent

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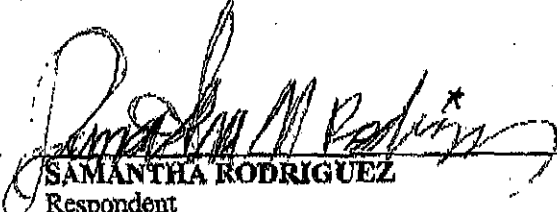
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Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that she is not in the same physical location as individuals who are using illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

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 of Pharmacy.

DATED:

5/21/012 
SAMANTHA RODRIGUEZ
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: *May 22, 2012*

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General



HEATHER HUA
Deputy Attorney General
Attorneys for Complainant

LA2010600827
51107171.doc

Exhibit A

Accusation No. 3776

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 HEATHER HUA
Deputy Attorney General
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6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3776

13 **SAMANTHA M. RODRIGUEZ**
14 **828 S. Herbert Avenue**
Los Angeles, CA 90023

A C C U S A T I O N

15 **Original Pharmacy Technician Registration**
16 **Number TCH 70934**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 9, 2006, the Board of Pharmacy (Board) issued Original
24 Pharmacy Technician Registration Number TCH 70934 to Samantha M. Rodriguez (Respondent).
25 The license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on December 31, 2011, unless renewed.

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JURISDICTION

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

STATUTORY PROVISIONS

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

5. Section 490 of the Code states:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

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

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1 7. Section 4301 states:

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

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

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

28 ///

1 **REGULATORY PROVISIONS**

2 8. California Code of Regulations, title 16, section 1770, states:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
7 licensee or registrant to perform the functions authorized by his license or registration in a manner
8 consistent with the public health, safety, or welfare."

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Criminal Convictions)**

16 10. Respondent is subject to disciplinary action under section 4301, subdivision (I), in
17 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
18 convicted of crimes that are substantially related to the qualifications, functions, or duties of a
19 pharmacy technician, as follows:

20 a. On or about April 15, 2010, after pleading nolo contendere, Respondent was convicted
21 of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having a
22 0.08% or higher blood alcohol], in the criminal proceeding entitled *The People of the State of*
23 *California v. Samantha Rodriguez* (Super. Ct. Los Angeles County, 2010, No. 0EA02505).

24 Respondent was sentenced to 120 days in custody, and placed on probation for a period of
25 36 months with certain terms and conditions. She was also ordered to complete an
26 18-month second offender's drug and alcohol education program, and pay restitution. The
27 circumstances surrounding the conviction are that on or about October 18, 2009, California
28 Highway Patrol officers were investigating a traffic collision. Upon speaking to Respondent,

1 officers detected a strong odor of alcohol from her breath. Respondent performed a series of
2 field sobriety tests unsuccessfully. Consequently, Respondent was arrested for driving a motor
3 vehicle while under the influence of an alcoholic beverage.

4 b. On or about February 9, 2007, after pleading nolo contendere, Respondent was
5 convicted of two misdemeanor counts involving Vehicle Code section 23152(b) [driving while
6 having a 0.08% or higher blood alcohol] and Vehicle Code section 14601.1(a) [driving with a
7 suspended license], in the criminal proceeding entitled *The People of the State of California v.*
8 *Samantha Maria Rodriguez* (Super. Ct. Los Angeles County, 2007, No. 6FF03639-01).
9 Respondent was sentenced to 20 days in custody, and placed on probation for a period 60 months
10 with certain terms and condition. She was also ordered to complete an 18-month drug and
11 alcohol education program, and pay restitution.

12 The circumstances surrounding the convictions are that on or about November 23, 2006,
13 Huntington Park Police officers stopped Respondent for weaving within the traffic lane. After
14 speaking to Respondent, officers noticed signs and symptoms of alcoholic intoxication including
15 a strong odor of alcohol on her breath, red and watery eyes, and slurred speech. Officers also
16 observed two bottles of Corona beer that were 3/4 empty located on the center console area of the
17 vehicle. A driver's license check revealed that Respondent's California license was suspended
18 and listed outstanding warrants, one of which is a DUI warrant. Respondent performed several
19 field sobriety tests unsuccessfully. Consequently, she was arrested for driving a vehicle while
20 under the influence of alcohol. The result of Respondent's chemical breath test was 0.23 % blood
21 alcohol level.

22 c. On or about January 5, 2007, after pleading nolo contendere, Respondent was
23 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while
24 having a 0.08% or higher blood alcohol], in the criminal proceeding entitled *The People of the*
25 *State of California v. Samantha Marie Rodriguez* (Super. Ct. Los Angeles County, 2007,
26 No. 6EA10426). Respondent was placed on probation for a period of 36 months with certain
27 terms and conditions. She was also ordered to complete a 3-month first offender's drug and
28 alcohol education program, and pay restitution.

1 d. On or about January 24, 2006, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Vehicle Code section 12500 [driving without a
3 license], in the criminal proceeding entitled *The People of the State of California v. Samantha*
4 *Maria Rodriguez* (Super. Ct. Los Angeles County, 2006, No. 5EL07883). Respondent was
5 ordered to pay a fine to the court.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Use of Alcohol Beverages to the Extent to be Dangerous to Oneself)**

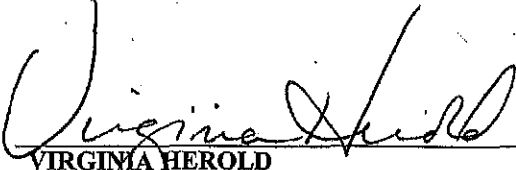
8 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
9 that Respondent used alcohol in a manner dangerous to herself and others on three separate
10 occasions. Complainant refers to and incorporates all the allegations contained in paragraph 10,
11 subparagraphs (a), (b), and (c), inclusive, as though set forth fully.

12 **PRAYER**

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

- 15 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
16 70934, issued to Respondent Samantha M. Rodriguez;
- 17 2. Ordering Respondent Samantha M. Rodriguez to pay the Board of Pharmacy the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21
- 22

23 DATED: 4/27/11

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

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