

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

In the Matter of the Accusation Against:

Case No. 4035

**ARMANDO BANUELOS**  
2744 E. Brookside Street  
Ontario, CA 91761

Pharmacy Technician Registration No.  
TCH 98676

Respondent.

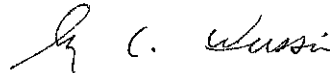
**DECISION AND ORDER**

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 September 23, 2014.

It is so ORDERED on September 18, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
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13 **Ontario, CA 91761**  
14 **Pharmacy Technician Registration No. TCH**  
**98676**

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

15 Respondent.

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

18 **PARTIES**

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

23 2. Armando Banuelos ("Respondent") is representing himself in this proceeding and has  
24 chosen not to exercise his right to be represented by counsel.

25 3. On or about April 14, 2010, the Board of Pharmacy issued Pharmacy Technician  
26 Registration No. TCH 98676 to Armando Banuelos. The Pharmacy Technician Registration was  
27 in full force and effect at all times relevant to the charges brought in Accusation No. 4035 and  
28 expired on May 31, 2013. The license has not been renewed.

1 JURISDICTION

2 4. Accusation No. 4035 was filed before the Board of Pharmacy ("Board"), Department  
3 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
4 statutorily required documents were properly served on Respondent on July 31, 2012.  
5 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation  
6 No. 4035 is attached as Exhibit A and incorporated by reference.

7 ADVISEMENT AND WAIVERS

8 5. Respondent has carefully read, and understands the charges and allegations in  
9 Accusation No. 4035. Respondent also has carefully read, and understands the effects of this  
10 Stipulated Surrender of License and Order.

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

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

20 CULPABILITY

21 8. Respondent admits the truth of each and every charge and allegation in Accusation  
22 No. 4035.

23 9. Respondent agrees that cause exists for discipline and hereby surrenders his  
24 Pharmacy Technician Registration No. TCH 98676 for the Board's formal acceptance.

25 10. Respondent understands that by signing this stipulation he enables the Board to issue  
26 an order accepting the surrender of his Pharmacy Technician Registration without further process.

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CONTINGENCY

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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 surrender, without notice to or  
5 participation by Respondent. By signing the stipulation, Respondent understands and agrees that  
6 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
7 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
8 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
10 be disqualified from further action by having considered this matter.

11       12. The parties understand and agree that Portable Document Format (PDF) and facsimile  
12 copies of this Stipulated Surrender of License and Order, including Portable Document Format  
13 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14       13. This Stipulated Surrender of License and 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 Surrender of License and Order  
18 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
19 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 Order:

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1 **ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 98676, issued  
3 to Respondent Armando Banelos, is surrendered and accepted by the Board of Pharmacy.

4 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance  
5 of the surrendered license by the Board shall constitute the imposition of discipline against  
6 Respondent.

7 2. This stipulation constitutes a record of discipline and shall become a part of  
8 Respondent's license history with the Board of Pharmacy.

9 3. Respondent shall lose all rights and privileges as a Pharmacy Technician in California  
10 as of the effective date of the Board's Decision and Order.

11 4. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
12 issued, his wall certificate on or before the effective date of the Decision and Order.

13 5. Respondent shall not apply for any license, permit, or registration from the Board for  
14 three (3) years from the effective date of this decision. Respondent stipulates that should he apply  
15 for a any license from the Board on or after the effective date of this decision, all allegations set  
16 forth in the Accusation 4035 shall be deemed to be true, correct and admitted by Respondent  
17 when the Board determines whether to grant or deny the application. Respondent shall satisfy all  
18 requirements applicable to that license as of the date the application is submitted to the Board,  
19 including, but not limited to certification by a nationally recognized body, prior to the issuance of  
20 a new license.

21 6. Respondent is required to report this surrender as disciplinary action. If he ever  
22 applies for licensure or petitions for reinstatement in the State of California, the Board shall treat  
23 it as a new application for licensure. Respondent must comply with all the laws, regulations and  
24 procedures for licensure in effect at the time the application or petition is filed, and all of the  
25 charges and allegations contained in Accusation No. 4035 shall be deemed to be true, correct and  
26 admitted by Respondent when the Board determines whether to grant or deny the application or  
27 petition.

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1           7.     Respondent stipulates that if he applies for any license from the Board on or after the  
2 effective date of this decision, he shall pay investigation and prosecution costs in the amount of  
3 \$3,690.00 shall be paid to the Board prior to the issuance of the license.

4           8.     If Respondent should ever apply or reapply for a new license or certification, or  
5 petition for reinstatement of a license, by any other health care licensing agency in the State of  
6 California, all of the charges and allegations contained in Accusation, No. 4035 shall be deemed  
7 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
8 other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

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

DATED: 7/22/19   
ARMANDO BANUELOS  
Respondent

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**ENDORSEMENT**

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General



ELYSE M. DAVIDSON  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4035**

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 ANTONIO LOPEZ, JR.  
Deputy Attorney General  
4 State Bar No. 206387  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2536  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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2744 E. Brookside Street  
Ontario, CA 91761

**ACCUSATION**

14 Pharmacy Technician Registration No. TCH  
15 98676

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 14, 2010, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 98676 to Armando Banuelos (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on May 31, 2013, unless renewed.

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1 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

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

10 5. Section 490 provides, in pertinent part:

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

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

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

25 6. Section 4300 provides, in pertinent part, that every license issued by the Board is  
26 subject to discipline, including suspension or revocation.

27 7. Section 4301 provides, in pertinent part:

28 "The board shall take action against any holder of a license who is guilty of unprofessional

1 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

2 Unprofessional conduct shall include, but is not limited to, any of the following:

3 . . . .

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

7 . . . .

8 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
9 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
10 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
11 substances or of a violation of the statutes of this state regulating controlled substances or  
12 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
13 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

14 The board may inquire into the circumstances surrounding the commission of the crime, in order  
15 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
16 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
17 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
18 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
19 of this provision. The board may take action when the time for appeal has elapsed, or the  
20 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
21 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
22 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
23 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
24 indictment.

25 . . . .

26 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
28 federal and state laws and regulations governing pharmacy, including regulations established by

1 the board or by any other state or federal regulatory agency."

2 **REGULATORY PROVISIONS**

3 8. California Code of Regulations, title 16, section 1770, provides, in pertinent part:

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

10 **COST RECOVERY**

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Conviction of a Substantially-Related Crime)**

17 10. Respondent is subject to disciplinary action under sections 490, and 4301, subdivision  
18 (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent  
19 has been convicted of a crime substantially related to the qualifications, functions or duties of a  
20 pharmacy technician, as follows:

21 a. On or about November 09, 2010, after pleading *nolo contendere*, Respondent was  
22 convicted of one felony count of violating Penal Code section 236 [false imprisonment by  
23 violence], in the criminal proceeding entitled *The People of the State of California v. Armando*  
24 *Banuelos* (Super. Ct. Fresno County, 2010, No. F10903181). The court sentenced Respondent to  
25 90 days in jail, placed him on probation for a period of 2 years, and fined him. The circumstances  
26 surrounding the conviction are that on or about October 10, 2009, a Fresno State Police Officer,  
27 while on duty, was dispatched to a Holiday Inn Express Hotel, located in the city of Fresno,  
28 regarding a sexual assault that occurred approximately one hour before the call was reported.

1 Respondent was later identified by the victim, as being the individual male who, while inside an  
2 elevator, touched her breasts, buttocks, and vaginal area against her will for sexual gratification  
3 and arousal. Respondent physically pushed the victim and held her inside the elevator against her  
4 will. Respondent was subsequently convicted of violating Penal Code section 236 [false  
5 imprisonment by violence.]

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit)**

8 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
9 that Respondent was convicted of a crime involving a dishonest act on or about November 09,  
10 2010. Complainant refers to and incorporates all the allegations contained in paragraph 10 above,  
11 subparagraph (a), inclusive, as though set forth fully.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 12. Respondent is subject to disciplinary action under sections 4300 and 4301,  
15 subdivision (o), on the grounds of unprofessional conduct, in that Respondent committed an act  
16 and was convicted of a crime on or about November 09, 2010, that violated the pharmacy act.  
17 Complainant refers to and incorporates all the allegations contained in paragraph 10 above,  
18 subparagraph (a), inclusive, as though set forth fully.

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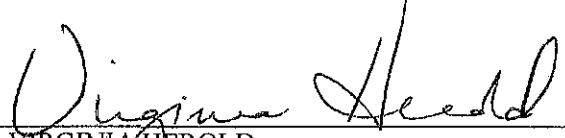
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PRAYER

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 98676, issued to Armando Banuelos;
2. Ordering Armando Banuelos 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/10/12



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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