



California State Board of Pharmacy
 1625 N. Market Blvd, N219, Sacramento, CA 95834
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 www.pharmacy.ca.gov

STATE AND CONSUMER SERVICES AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Joseph C Gutierrez</u>	Case No. <u>3858</u>
Address of Record: <u>351 E Monte Vista Dr #1</u> <u>Turlock, CA 95382</u>	

Received
 SEP 09 2013
 California State Board of Pharmacy

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 3858, I hereby request to surrender my pharmacy technician license; License No. 100690. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

[Signature]
 Applicant's Signature

[Signature]
 Executive Officer's Approval

9-5-13
 Date

9/11/13
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Statement of Issues Against:

Case No. 3858

JOSEPH CHRISTOPHER GUTIERREZ

1543 Wall Street
Tracy, CA 95376

Pharmacy Technician Applicant

Respondent.

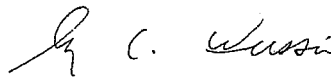
DECISION AND ORDER

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 June 22, 2011.

It is so ORDERED on May 23, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
Against:

Case No. 3858

12
13 **JOSEPH CHRISTOPHER GUTIERREZ**
14 **1543 Wall Street**
Tracy, CA 95376

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 Respondent.

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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 Edmund
23 G. Brown Jr., Attorney General of the State of California, by Brian S. Turner, Deputy Attorney
24 General.

25 2. Respondent Joseph Christopher Gutierrez (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.

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1 Respondent Joseph Christopher Gutierrez. The registration shall be immediately revoked but the
2 revocation will be stayed. Respondent's license shall be placed on four (4) years probation on
3 the following terms and conditions.

4 **1. Certification Prior to Returning to Work.**

5 Respondent shall be automatically suspended from working as a pharmacy technician until
6 he or she is certified as defined by Business and Professions Code section 4202(a)(4) and
7 provides satisfactory proof of certification to the board. Respondent shall not resume working as a
8 pharmacy technician until notified by the board. Failure to achieve certification within one
9 (1) year shall be considered a violation of probation. Respondent shall not resume working as a
10 pharmacy technician until notified by the board.

11 During suspension, respondent shall not enter any pharmacy area or any portion of 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 Subject to the above restrictions, respondent may continue to own or hold an interest in
20 any licensed premises by the board in which he or she holds an interest at the time this
21 decision becomes effective unless otherwise specified in this order. Failure to comply with
22 this suspension shall be considered a violation of probation.

23 **2. Obey All Laws**

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

25 Respondent shall report any of the following occurrences to the Board, in writing, within
26 seventy-two (72) hours of such occurrence:

- 27 an arrest or issuance of a criminal complaint for violation of any provision of the
28 Pharmacy Law, state and federal food and drug laws, or state and federal controlled

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substances laws

- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's Pharmacy Technician's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

3. Report to the Board

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

4. Interview with the Board

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

5. Cooperate with Board Staff

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

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6. Notice to Employers

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 3858 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 3858 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 3858 in advance of the Respondent commencing work at each pharmacy. A record of this notification must be provided to the Board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment by or through a pharmacy employment service, Respondent shall cause his direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he has read the decision in case number 3858 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

"Employment" within the meaning of this provision shall include any full-time,

1 part-time, temporary or relief service or pharmacy management service as a pharmacy
2 technician or in any position for which a pharmacy technician license is a requirement
3 or criterion for employment, whether the Respondent is considered an employee,
4 independent contractor or volunteer.

5 **7. Probation Monitoring Costs**

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

10 **8. Status of License**

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

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

18 **9. License Surrender While on Probation/Suspension**

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

27 Upon acceptance of the surrender, Respondent shall relinquish his pharmacy technician
28 license to the Board within ten (10) days of notification by the Board that the surrender is

1 accepted. Respondent may not reapply for any license, permit, or registration from the Board for
2 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
3 applicable to the license sought as of the date the application for that license is submitted to the
4 Board.

5 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
6 **Employment.**

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

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

14 **11. Tolling of Probation**

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

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

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

1 "Cessation of work" means calendar month during which Respondent is not
2 working for at least 20 hours per week as a pharmacy technician, as defined in
3 Business and Professions Code section 4115. "Resumption of work" means any
4 calendar month during which Respondent is working as a pharmacy technician for at
5 least 20 hours per week as a pharmacy technician as defined by Business and
6 Professions Code section 4115.

7 **12. Violation of Probation**

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

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

20 **13. Completion of Probation**

21 Upon written notice by the Board indicating successful completion of probation,
22 Respondent's pharmacy technician license will be fully restored.

23 **14. No Ownership of Licensed Premises**

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

1 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
2 documentation thereof shall be considered a violation of probation.

3 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups.**

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

12 **16. Random Drug Screening**

13 Respondent, at his or her own expense, shall participate in random testing, including but
14 not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other
15 drug screening program as directed by the Board or its designee. Respondent may be required to
16 participate in testing for the entire probation period and the frequency of testing will be
17 determined by the Board or its designee. At all times Respondent shall fully cooperate with the
18 Board or its designee, and shall, when directed, submit to such tests and samples for the detection
19 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or
20 its designee may direct. Failure to timely submit to testing as directed shall be considered a
21 violation of probation. Upon request of the Board or its designee, Respondent shall provide
22 documentation from a licensed practitioner that the prescription for a detected drug was
23 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely
24 provide such documentation shall be considered a violation of probation. Any confirmed positive
25 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a
26 documented medical treatment shall be considered a violation of probation and shall result in the
27 automatic suspension of work by Respondent. Respondent may not resume work as a pharmacy
28 technician until notified by the Board in writing. During suspension, Respondent shall not enter

1 any pharmacy area or any portion of or any other Board licensed premises (wholesaler, veterinary
2 food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other
3 location where dangerous drugs and devices or controlled substances are maintained. Respondent
4 shall not do any act involving drug selection, selection of stock, manufacturing, compounding or
5 dispensing; nor shall Respondent manage, administer, or assist any licensee of the Board.
6 Respondent shall not have access to or control the ordering, manufacturing or dispensing of
7 dangerous drugs and devices or controlled substances. Respondent shall not resume work until
8 notified by the Board. Respondent shall not direct, control or perform any aspect of the practice
9 of pharmacy. Subject to the above restrictions, Respondent may continue to own or hold an
10 interest in any licensed premises in which he or she holds an interest at the time this decision
11 becomes effective unless otherwise specified in this order. Failure to comply with this suspension
12 shall be considered a violation of probation.

13 **17. Work Site Monitor**

14 Within ten (10) days of the effective date of this decision, Respondent shall identify a
15 work site monitor, for prior approval by the Board, who shall be responsible for supervising
16 Respondent during working hours. Respondent shall be responsible for ensuring that the work site
17 monitor reports in writing to the Board quarterly. Should the designated work site monitor
18 determine at any time during the probationary period that Respondent has not maintained
19 sobriety, he or she shall notify the Board immediately, either orally or in writing as directed.
20 Should Respondent change employment, a new work site monitor must be designated, for prior
21 approval by the Board, within ten (10) days of commencing new employment. Failure to identify
22 an acceptable initial or replacement work site monitor, or to ensure quarterly reports are
23 submitted to the Board, 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
26 designee for a period greater than twenty-four (24) hours, Respondent shall notify the Board
27 verbally and in writing of the dates of departure and return. Failure to comply with this provision
28 shall be considered a violation of probation.

1 **19. Abstain from Drugs and Alcohol Use**

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

14 **20. Community Service**


15 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
16 Board or its designee, for prior approval, a community service program in which Respondent
17 shall provide free healthcare related services on a regular basis to a community or charitable
18 facility or agency totaling one hundred (100) hours per year for the first two (2) years of
19 probation. Within thirty (30) days of Board approval thereof, Respondent shall submit
20 documentation to the Board demonstrating commencement of the community service program. A
21 record of this notification must be provided to the Board upon request. Respondent shall report
22 on progress with the community service program in the quarterly reports. Failure to timely
23 submit, commence, or comply with the program shall be considered a violation of probation.

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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 License. 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: 2/27/11

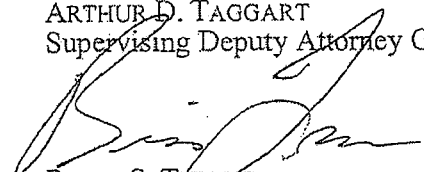

JOSEPH CHRISTOPHER GUTIERREZ
Respondent

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: 3/24/11

Respectfully Submitted,
~~KAMALA O. HARRIS~~
~~EDMUND G. BROWN JR.~~
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General


BRIAN S. TURNER
Deputy Attorney General
Attorneys for Complainant

SA2010102785
Stipulation.rtf

Exhibit A

Statement of Issues No. 3858

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 BRIAN S. TURNER
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7 E-mail: Brian.Turner@doj.ca.gov
Attorneys for Complainant

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

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12 In the Matter of the Statement of Issues
Against:

Case No. 3858

13 **JOSEPH CHRISTOPHER GUTIERREZ**
14 **1543 Wall Street**
15 **Tracy, CA 95376**

STATEMENT OF ISSUES

16 **Pharmacy Technician License**
Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about February 10, 2010, the Board of Pharmacy, Department of Consumer
23 Affairs received an application for a Pharmacy Technician License from Joseph Christopher
24 Gutierrez (Respondent). On or about February 1, 2010, Respondent certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on August 18, 2010.

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1 a. On March 3, 2008, Respondent was operating a motor vehicle at or around 2 a.m.,
2 Respondent made a left turn from eastbound 11th Street to northbound Tracy Boulevard against a
3 red light in violation of Vehicle Code section 21453(c). In turning left at an intersection against a
4 red light, Respondent was a danger to himself and others. Respondent was subsequently
5 convicted by his plea of no contest to a violation of Vehicle Code section 23152(b) with a blood
6 alcohol level of .25.

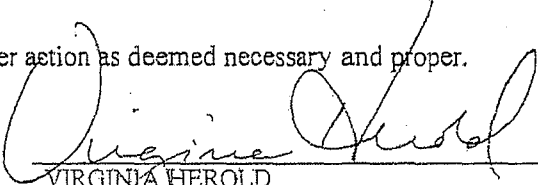
7 b. Respondent's acts if done by a licensee would result in the revocation, suspension or
8 other discipline by the Board and as such is grounds for denial of the Respondent's application
9 for a license.

10 PRAYER

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

- 13 1. Denying the application of Joseph Christopher Gutierrez for a Pharmacy Technician
14 License;
15 2. Taking such other and further action as deemed necessary and proper.

16 DATED: 1/20/11



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

21 SA2010102785
22 statement of issues.rtf