



**California State Board of Pharmacy**

1625 N. Market Blvd, N219, Sacramento, CA 95834  
Phone: (916) 574-7900  
Fax: (916) 574-8618  
www.pharmacy.ca.gov

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

June 11, 2013

**CERTIFIED MAIL**

Mario Canales  
1237 S. 2<sup>nd</sup> Street, #D  
Alhambra, CA 91801

Re: Administrative Case No. 4305

Dear Mr. Canales:

Attached is the Board of Pharmacy's Default Decision and Order relative to the above-referenced matter. Your attention is directed to page 4 of the document.

Effective July 11, 2013, Pharmacy Technician License, TCH 111200 issued to Mario Canales is revoked. You may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service on the Decision.

Please return your pocket license to the Board on or before the effective date of this decision.

If you have any questions concerning this matter, you may contact Lisa Chullino, Enforcement Analyst, at (916) 574-7921.

Sincerely,

VIRGINIA K. HEROLD  
Executive Officer

By

Susan Cappello  
Enforcement Manager

SC:lc  
Enclosure

cc: Nancy Kaiser, DAG

**DECLARATION OF SERVICE BY CERTIFIED MAIL**

RE: Mario Canales, TCH 111200

CASE NO. 4305

I am over 18 years of age, and not a party to the within cause; my business address is 1625 N. Market Blvd, Suite N 219, Sacramento, California 95834. I served a copy of the:

**LETTER AND DEFAULT DECISION**

on each of the following, by placing same in an envelope(s) addressed as follows:

<u>NAME</u>	<u>CERTIFIED NO.</u>
Mario Canales 1237 S. 2nd Street, #D Alhambra, CA 91801	7012 1010 0001 2548 4547

and that said envelope was then sealed and deposited and certified in the United States Post Office at Sacramento, California, on June 11, 2013, as certified mail with postage fully prepaid thereon and return receipt service by United States mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 11, 2013, at Sacramento, California.

---

Lisa Chullino

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

In the Matter of the Accusation Against:  
**MARIO ALBERTO CANALES**  
1237 S. 2nd Street, #D  
Alhambra, CA 91801  
**Pharmacy Technician Registration No. TCH  
111200**  
  
Respondent.

Case No. 4305

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 9, 2012, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the California State Board of Pharmacy, filed Accusation No. 4305 against Mario Alberto Canales (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about February 28, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 111200 to Respondent. The Pharmacy Technician Registration expired on May 31, 2012, and has not been renewed.

1           3.     On or about November 1, 2012, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 4305, Statement to Respondent, Notice of Defense, Request  
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
6 record was and is:

7     1237 S. 2nd Street, #D  
8     Alhambra, CA 91801.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5.     On or about November 28, 2013, a certified mail return receipt that was signed by  
13 Respondent, evidencing receipt of the Accusation packet pleading packet, was received by the  
14 Department of Justice.

15           6.     Government Code section 11506 states, in pertinent part:

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

21           7.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
23 4305.

24           8.     California Government Code section 11520 states, in pertinent part:

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

          9.     Pursuant to its authority under Government Code section 11520, the Board finds  
Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
2 file at the Board offices regarding the allegations contained in Accusation No. 4305, finds that the  
3 charges and allegations in Accusation No. 4305, are separately and severally, found to be true and  
4 correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and  
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
7 and Enforcement is \$1,555.00 as of March 19, 2013.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Mario Alberto Canales has  
10 subjected his Pharmacy Technician Registration No. TCH 111200 to discipline.

11 2. The agency has jurisdiction to adjudicate this case by default.

12 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
13 Registration based upon the following violations alleged in the Accusation, which are supported  
14 by the evidence contained in the Default Decision Evidence Packet in this case.:

15 a. Bus. & Prof. Code, §§ 490 and 4301, subd. (l) (Conviction of a Substantially Related  
16 Crime); and

17 b. Bus. & Prof. Code, §§ 4301, sub. (f) (Acts Involving Moral Turpitude, Dishonesty,  
18 Fraud, Deceit, or Corruption).

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

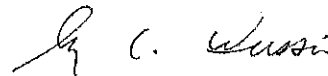
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 111200, heretofore issued to Respondent Mario Alberto Canales, is revoked.

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 July 11, 2013.

It is so ORDERED ON June 11, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STANLEY C. WEISSER  
Board President

51261119.DOC  
LA2012506745

Attachment:  
Exhibit A: Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 NANCY A. KAISER  
Deputy Attorney General  
4 State Bar No. 192083  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-5794  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

8  
9  
10  
11

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

12 In the Matter of the Accusation Against:  
13 **MARIO ALBERTO CANALES**  
1237 S. 2nd Street, #D  
14 Alhambra, CA 91801  
15 **Pharmacy Technician License No. TCH 111200**  
16 Respondent.

Case No. 4305

**ACCUSATION**

17  
18

19 Complainant alleges:

20 **PARTIES**

21  
22  
23  
24  
25

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
2. On or about February 28, 2011, the Board issued Pharmacy Technician License No. TCH 111200 to Mario Alberto Canales (Respondent). The Pharmacy Technician License expired on May 31, 2012, and has not been renewed.

26 **JURISDICTION**

27  
28

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.

1 STATUTORY PROVISIONS

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

6 5. Section 490 provides that a board may suspend or revoke a license on the ground that  
7 the licensee has been convicted of a crime substantially related to the qualifications, functions, or  
8 duties of the business or profession for which the license was issued.

9 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or  
10 revoked."

11 7. Section 4301 states, in pertinent part:

12 "The board shall take action against any holder of a license who is guilty of unprofessional  
13 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

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

15 . . . .

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

19 . . . .

20 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
21 duties of a licensee under this chapter. . . ."

22 REGULATORY PROVISION

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

24 "For the purpose of denial, suspension, or revocation of a personal or facility license  
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

28 ///



1 licensee or registrant to perform the functions authorized by his license or registration in a manner  
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

4 9. Section 125.3 provides that the Board may request the administrative law judge to  
5 direct a licentiate found to have committed a violation or violations of the licensing act to pay a  
6 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Conviction of a Substantially Related Crime)**

9 10. Respondent is subject to disciplinary action under sections 490 and 4301,  
10 subdivision (l), on the grounds of unprofessional conduct, in that on or about January 24, 2012,  
11 Respondent was convicted of a crime substantially related to the qualifications, functions or  
12 duties of a registrant which to a substantial degree evidences his present or potential unfitness to  
13 perform the functions authorized by his license in a manner consistent with the public health,  
14 safety, or welfare, as follows:

15 a. On or about January 24, 2012, after pleading nolo contendere, Respondent was  
16 convicted of one felony count of violating Penal Code section 236 (false imprisonment), in the  
17 criminal proceeding entitled *The People of the State of California v. Mario Canales* (Super. Ct.  
18 Los Angeles County, 2011, No. BA390526). The Court sentenced Respondent to serve 180 days  
19 in jail, placed him on three (3) years probation, and ordered him to complete a 52-week sexual  
20 offender treatment program.

21 b. The circumstances underlying the conviction occurred on or about October 31, 2011,  
22 Respondent sexually assaulted a female acquaintance. Respondent was subsequently arrested for  
23 rape with a foreign object, in violation of Penal Code section 264.1.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

26 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
27 that on or about October 30, 2011, on the grounds of unprofessional conduct, Respondent  
28 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant

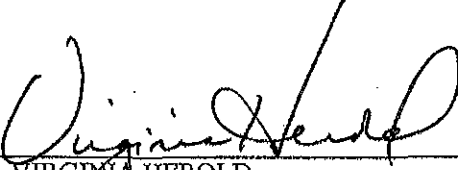
1 refers to, and by this reference incorporates, the allegations set forth above in paragraph 10, as  
2 though fully set forth.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician License No. TCH 111200, issued to  
7 Mario Alberto Canales;
- 8 2. Ordering Mario Alberto Canales to pay the Board the reasonable costs of the  
9 investigation and enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

11  
12 DATED: 10/9/12



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

13  
14  
15  
16  
17 LA2012506745  
18 51123344.doc  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28