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

In the Matter of the Accusation Against:

Case No. 5180

SERGIO HERIBERTO SAAVEDRA 13100 S. Main St. Los Angeles, CA 90061 Pharmacy Technician Registration No. TCH 110392

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the

By

Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 4, 2015.

It is so ORDERED on February 25, 2015.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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STAN C. WEISSER Board President

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1	KAMALA D. HARRIS
2	Attorney General of California ARMANDO ZAMBRANO
3	Supervising Deputy Attorney General LINDA L. SUN
4	Deputy Attorney General State Bar No. 207108
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telenhaney (212) 807 6275
6	Telephone: (213) 897-6375 Facsimile: (213) 897-2804
7	Attorneys for Complainant BEFORE THE
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 5180
11	SERGIO HERIBERTO SAAVEDRA
12	13100 S. Main St. Los Angeles, CA 90061 STIPULATED SURRENDER OF
13	Pharmacy Technician Registration No. TCH LICENSE AND ORDER 110392
14	Respondent.
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17	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18	entitled proceedings that the following matters are true:
19	PARTIES
20	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21	She brought this action solely in her official capacity and is represented in this matter by Kamala
22	D. Harris, Attorney General of the State of California, by Linda L. Sun, Deputy Attorney General.
23	2. Sergio Heriberto Saavedra (Respondent) is representing himself in this proceeding
24	and has chosen not to exercise his right to be represented by counsel.
25	3. On or about March 11, 2011, the Board issued Pharmacy Technician Registration No.
26	TCH 110392 to Respondent. The Pharmacy Technician Registration was in full force and effect
27	at all times relevant to the charges brought in Accusation No. 5180 and had expired on September
28	30, 2014.
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1	JURISDICTION
2	4. Accusation No. 5180 was filed before the Board and is currently pending against
3	Respondent. The Accusation and all other statutorily required documents were properly served
4	on Respondent on December 2, 2014. Respondent timely filed his Notice of Defense contesting
5	the Accusation. A copy of Accusation No. 5180 is attached as Exhibit A and incorporated by
6	reference.
7	ADVISEMENT AND WAIVERS
8	5. Respondent has carefully read, and understands the charges and allegations in
9	Accusation No. 5180. 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	<u>CULPABILITY</u>
21	8. Respondent admits the truth of each and every charge and allegation in Accusation
22	No. 5180, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
23	Registration No. TCH 110392 for the Board's formal acceptance.
24	9. Respondent understands that by signing this stipulation he enables the Board to issue
25	an order accepting the surrender of his Pharmacy Technician Registration without further process.
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CONTINGENCY 1 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent 2 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may 3 4 communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that 5 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board 6 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, 7 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this 8 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not 9 be disqualified from further action by having considered this matter. 10 The parties understand and agree that Portable Document Format (PDF) and facsimile 11. 11 copies of this Stipulated Surrender of License and Order, including Portable Document Format 12 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals. 13 12. This Stipulated Surrender of License and Order is intended by the parties to be an 14 integrated writing representing the complete, final, and exclusive embodiment of their agreement. 15 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 16 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order 17 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing 18 executed by an authorized representative of each of the parties. 19 In consideration of the foregoing admissions and stipulations, the parties agree that 13. 2021 the Board may, without further notice or formal proceeding, issue and enter the following Order: ORDER 22 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 110392, 23 issued to Respondent Sergio Heriberto Saavedra, is surrendered and accepted by the Board of 24 Pharmacy. 25 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance 26

27 of the surrendered license by the Board shall constitute the imposition of discipline against

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

2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.

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

4. If Respondent ever files an application for licensure or a petition for reinstatement in
the State of California, the Board shall treat it as a new application. Respondent must comply
with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the
time the petition is filed, and all of the charges and allegations contained in Accusation No. 5180
shall be deemed to be true, correct and admitted by Respondent when the Board determines
whether to grant or deny the application.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of nine hundred twelve dollars and fifty cents (\$912.50) prior to issuance of a new or
15 reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or
petition for reinstatement of a license, by any other health care licensing agency in the State of
California, all of the charges and allegations contained in Accusation No. 5180 shall be deemed to
be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
other proceeding seeking to deny or restrict licensure.

21 7. Respondent shall not apply for licensure or petition for reinstatement for three (3)
22 years from the effective date of the Board's Decision and Order.

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1	ACCEPTANCE
2	I have carefully read the Stipulated Surrender of License and Order. I understand the
3	stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
4	Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
5	be bound by the Decision and Order of the Board of Pharmacy.
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7	DATED: 1/20/15 SERGIO HERIBERTO SAAVEDRA
8	Respondent
9	ENDORSEMENT
10	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
11	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
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13	Dated: $1/2c/15$ Respectfully submitted,
14	KAMALA D. HARRIS Attorney General of California
15	ARMANDO ZAMBRANO Supervising Deputy Attorney General
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17	LINDA L. SUN
18	Deputy Attorney General Attorneys for Complainant
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Stinulated Surrender of License (Case No. 5180)

Exhibit A

Accusation No. 5180

1	KAMALA D. HARRIS
2	Attorney General of California ARMANDO ZAMBRANO
3	Supervising Deputy Attorney General LINDA L. SUN
4	Deputy Attorney General State Bar No. 164015
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013
6	Telephone: (213) 897-6375 Facsimile: (213) 897-2804
7	Attorneys for Complainant
8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 5180
12	SERGIO HERIBERTO SAAVEDRA 13100 S. Main St. A C C U S A T I O N
13	Los Angeles, CA 90061
14	Pharmacy Technician Registration
15	No. TCH 110392
16	Respondent.
17	Complainant alleges:
18	PARTIES
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21	2. On or about March 11, 2011, the Board of Pharmacy (Board) issued Pharmacy
22	Technician Registration No. TCH 110392 to Sergio Heriberto Saavedra (Respondent). The
23	Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24	brought herein and will expire on September 30, 2014, unless renewed.
25	JURISDICTION
26	3. This Accusation is brought before the Board under the authority of the following
27	laws. All section references are to the Business and Professions Code (Code) unless otherwise
28	indicated.
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	Accusation

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STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

"(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."

7 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
8 discipline a licensee for conviction of a crime that is independent of the authority granted under
9 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
10 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."

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5. Section 492 states, in pertinent part:

"Notwithstanding any other provision of law, successful completion of any diversion 18 program under the Penal Code, or successful completion of an alcohol and drug problem 19 assessment program under Article 5 (commencing with Section 23249.50) of Chapter 20 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 21 (commencing with Section 500) of this code, or any initiative act referred to in that division, from 22 taking disciplinary action against a licensee or from denying a license for professional 23 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record 24 pertaining to an arrest." 25

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6. Section 493 states:

27 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
28 the department pursuant to law to deny an application for a license or to suspend or revoke a

license or otherwise take disciplinary action against a person who holds a license, upon the 1 ground that the applicant or the licensee has been convicted of a crime substantially related to the 2 qualifications, functions, and duties of the licensee in question, the record of conviction of the 3 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, 4 and the board may inquire into the circumstances surrounding the commission of the crime in 5 order to fix the degree of discipline or to determine if the conviction is substantially related to the 6 qualifications, functions, and duties of the licensee in question. As used in this section, "license" 7 includes "certificate," "permit," "authority," and "registration." 8

9 7. Section 4060 provides in pertinent part, that no person shall possess any controlled
10 substance, except that furnished to a person upon the prescription of a physician, dentist,
11 podiatrist, optometrist, veterinarian, or other authorized prescriber.

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

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9. Section 4300.1 states:

15 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by 16 operation of law or by order or decision of the board or a court of law, the placement of a license 17 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board 18 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary 19 proceeding against, the licensee or to render a decision suspending or revoking the license."

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10. Section 4301 states:

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

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous
drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
oneself, to a person holding a license under this chapter, or to any other person or to the public, or

to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

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

"(l) – The conviction of a crime substantially related to the qualifications, functions, and 7 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 8 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 9 substances or of a violation of the statutes of this state regulating controlled substances or 10 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 11 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 12 The board may inquire into the circumstances surrounding the commission of the crime, in order 13 to fix the degree of discipline or, in the case of a conviction not involving controlled substances 14 or dangerous drugs, to determine if the conviction is of an offense substantially related to the 15 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 16 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 17 of this provision. The board may take action when the time for appeal has elapsed, or the 18 judgment of conviction has been affirmed on appeal or when an order granting probation is made 19 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 20 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 21 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 22 indictment." 23

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1770 states, in pertinent part:
"For the purpose of denial, suspension, or revocation of a personal or facility license
pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
crime or act shall be considered substantially related to the qualifications, functions or duties of a

licensee or registrant if to a substantial degree it evidences present or potential unfitness of a 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 12. Section 125.3 states, in pertinent part, that the Board may request the administrative 5 law judge to direct a licentiate found to have committed a violation or violations of the licensing 6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the 7 8 case. 13. CONTROLLED SUBSTANCE 9 "Marijuana," is a Schedule I controlled substance as designated by Health and Safety a. 10 Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to 11 section 4022. 12 b. "Methamphetamine," is a Schedule II controlled substance as designated by Health 13 and Safety Code section 11055, subdivision (d)(2) and is categorized as a dangerous drug 14 pursuant to section 4022. 15 FIRST CAUSE FOR DISCIPLINE 16 (Conviction of a Substantially Related Crime) 17 14. Respondent is subject to disciplinary action under Code sections 4301, subdivision (1) 18 and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that 19 Respondent has been convicted of a crime substantially related to the qualifications, functions or 20 duties of a pharmacy technician. On or about February 4, 2014, pursuant to a plea of nolo 21 contendere, Respondent was convicted of one misdemeanor count of violating Penal Code section 22 602, subdivision (k) [trespass; injure property] in the criminal proceeding entitled The People of 23 the State of California v. Sergio Heriberto Saavedra (Super. Ct. L.A. County, 2013, No. 24 3CA19635). The Court deferred pronouncement of sentence for 24 months pending 25 Respondent's completion of a drug diversion program. The circumstances surrounding the 26 conviction are that on or about October 18, 2013, an officer of the Sheriff's Department observed 27 Respondent on his skateboard failing to stop at a red light and a "don't walk" sign at a crosswalk. 28 5

Accusation

1	While speaking to Respondent, the officer detected a strong odor of Marijuana emitting from his
2	person. During a search of Respondent's person, the officer noticed a bulge in Respondent's
3	pocket. When questioned, Respondent stated, "It's just a little weed and crystal." The officer
4	located two plastic baggies in Respondent's front right coin pocket. One bag contained
5	Marijuana and the other contained a white crystalline substance resembling Methamphetamine.
6	SECOND CAUSE FOR DISCIPLINE
7	(Use/Under the Influence of a Controlled Substance)
8	15. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
9	in that on or about October 18, 2013, Respondent used and/or was under the influence of a
10	controlled substance to the extent or in a manner as to be dangerous or injurious to himself or to
11	the public. Complainant refers to, and by this reference incorporates, the allegations set forth
12	above in paragraph 14, as though set forth fully.
13	THIRD CAUSE FOR DISCIPLINE
14	(Obtained or Possessed a Controlled Substance)
15	16. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
16	as defined in section 4060, in that on or about October 18, 2013, Respondent obtained or
17	possessed controlled substances in violation of Health and Safety Code sections 11357 and
18	11377. Complainant refers to, and by this reference incorporates, the allegations set forth above
19	in paragraph 14, as though set forth fully.
20	<u>PRAYER</u>
21	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22	and that following the hearing, the Board of Pharmacy issue a decision:
23	1. Revoking or suspending Pharmacy Technician Registration No. TCH 110392, issued
24	to Sergio Heriberto Saavedra;
25	2. Ordering Sergio Heriberto Saavedra to pay the Board of Pharmacy the reasonable
26	costs of the investigation and enforcement of this case, pursuant to Business and Professions
27	Code section 125.3; and
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Taking such other and further action as deemed necessary and proper. 3. 11/14/14 DATED: VIRGINIA HEROLD ExecutiveOfficer Board of Pharmacy Department of Consumer Affairs State of California Complainant LA2014511670 51570872.doc Accusation