

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

In the Matter of the Accusation Against:

**ANDREW LUIS GODINEZ
10345 Western Avenue, #48
Downey, CA 90241
Pharmacy Technician Registration No. TCH
97718**

Respondent.

Case No. 5190

OAH No. 2015010496

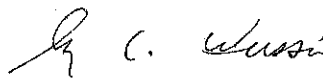
DECISION AND ORDER

The attached Stipulated Surrender of License and 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 4, 2015.

It is so ORDERED on May 28, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
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2 ARMANDO ZAMBRANO
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **ANDREW LUIS GODINEZ**
10331 Western Avenue, #48
13 Downey, CA 90241
Pharmacy Technician Registration No. TCH
14 97718
15 Respondent.

Case No. 5190
OAH No. 2015010496
**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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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
21 **PARTIES**

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

26 2. Andrew Luis Godinez (Respondent) is representing himself in this proceeding and
27 has chosen not to exercise his right to be represented by counsel.
28

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 5190, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
4 Registration No. TCH 97718 for the Board's formal acceptance.

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

7
8 CONTINGENCY

9 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
10 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
11 communicate directly with the Board regarding this stipulation and surrender, without notice to or
12 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
13 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
14 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
15 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
16 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
17 be disqualified from further action by having considered this matter.

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

21 12. This Stipulated Surrender of License and Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
25 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
26 executed by an authorized representative of each of the parties.

27 13. In consideration of the foregoing admissions and stipulations, the parties agree that
28 the Board may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

1
2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 97718, issued
3 to Respondent Andrew Luis Godinez, 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. This stipulation constitutes a record of the discipline and shall become a part of
7 Respondent's license history with the Board of Pharmacy.

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

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

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

20 5. Respondent shall pay the agency its costs of investigation and enforcement in the
21 amount of \$3,955.00 prior to issuance of a new or reinstated license.

22 6. If Respondent should ever apply or reapply for a new license or certification, or
23 petition for reinstatement of a license, by any other health care licensing agency in the State of
24 California, all of the charges and allegations contained in Accusation, No. 5190 shall be deemed
25 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
26 other proceeding seeking to deny or restrict licensure.

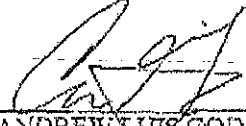
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ACCEPTANCE

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: 5/1/2015 
ANDREW LUIS GODINEZ
Respondent

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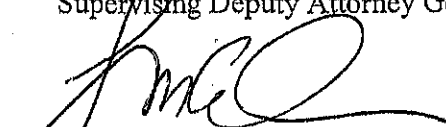
ENDORSEMENT

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: April 30, 2015

Respectfully submitted,

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



LANGSTON M. EDWARDS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5190

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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5190

13 **ANDREW LUIS GODINEZ**
10331 Western Avenue, #48
14 Downey, CA 90241

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 97718**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 22 2. On June 14, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 97718 to Andrew Luis Godinez (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 April 30, 2016, unless renewed.

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JURISDICTION

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

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 4300, subdivision (a), of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

7. Section 480 of the Code states:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. 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.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

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1 (B) The board may deny a license pursuant to this subdivision
2 only if the crime or act is substantially related to the qualifications, functions, or
3 duties of the business or profession for which application is made.

4 (b) Notwithstanding any other provision of this code, no person shall
5 be denied a license solely on the basis that he or she has been convicted of a
6 felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5
7 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that
8 he or she has been convicted of a misdemeanor if he or she has met all applicable
9 requirements of the criteria of rehabilitation developed by the board to evaluate
10 the rehabilitation of a person when considering the denial of a license under
11 subdivision (a) of Section 482.

12 (c) A board may deny a license regulated by this code on the ground
13 that the applicant knowingly made a false statement of fact required to be
14 revealed in the application for the license.

15 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
16 revoke a license on the ground that the licensee has been convicted of a crime substantially
17 related to the qualifications, functions, or duties of the business or profession for which the
18 license was issued.

19 9. Section 493 of the Code states:

20 Notwithstanding any other provision of law, in a proceeding conducted by
21 a board within the department pursuant to law to deny an application for a license
22 or to suspend or revoke a license or otherwise take disciplinary action against a
23 person who holds a license, upon the ground that the applicant or the licensee has
24 been convicted of a crime substantially related to the qualifications, functions, and
25 duties of the licensee in question, the record of conviction of the crime shall be
26 conclusive evidence of the fact that the conviction occurred, but only of that fact,
27 and the board may inquire into the circumstances surrounding the commission of
28 the crime in order to fix the degree of discipline or to determine if the conviction
is substantially related to the qualifications, functions, and duties of the licensee in
question.

As used in this section, 'license' includes 'certificate,' 'permit,'
'authority,' and 'registration.'

10. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe
for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts
this device to sale by or on the order of a _____," "Rx only," or words of

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1 similar import, the blank to be filled in with the designation of the practitioner
2 licensed to use or order use of the device.

3 (c) Any other drug or device that by federal or state law can be
4 lawfully dispensed only on prescription or furnished pursuant to Section 4006.

5 11. Section 4060 of the Code states:

6 No person shall possess any controlled substance, except that furnished to
7 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
8 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
9 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
10 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
11 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or
12 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
13 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
14 section shall not apply to the possession of any controlled substance by a
15 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
16 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
17 practitioner, or physician assistant, when in stock in containers correctly labeled
18 with the name and address of the supplier or producer.

19 Nothing in this section authorizes a certified nurse-midwife, a nurse
20 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
21 stock of dangerous drugs and devices.

22 12. Section 4301 of the Code states:

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

27

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

. . . .

(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.

. . . .

(o) Violating or attempting to violate, directly or indirectly, or assisting in
or abetting the violation of or conspiring to violate any provision or term of this
chapter or of the applicable federal and state laws and regulations governing
pharmacy, including regulations established by the board or by any other state or
federal regulatory agency.

. . . .

(p) Actions or conduct that would have warranted denial of a license.

. . . .

1 13. Section 4315 of the Code states:

2 (a) The executive officer, or his or her designee, may issue a letter of
3 admonishment to a licensee for failure to comply with Section 733, for failure to
4 comply with this chapter or regulations adopted pursuant to this chapter, or for
5 failure to comply with Division 116 (commencing with Section 150200) of the
6 Health and Safety Code, directing the licensee to come into compliance.

7 (b) The letter of admonishment shall be in writing and shall describe in
8 detail the nature and facts of the violation, including a reference to the statutes or
9 regulations violated.

10 (c) The letter of admonishment shall inform the licensee that within 30
11 days of service of the order of admonishment the licensee may do either of the
12 following:

13 (1) Submit a written request for an office conference to the executive
14 officer of the board to contest the letter of admonishment.

15 (A) Upon a timely request, the executive officer, or his or her designee,
16 shall hold an office conference with the licensee or the licensee's legal counsel or
17 authorized representative. Unless so authorized by the executive officer, or his or
18 her designee, no individual other than the legal counsel or authorized
19 representative of the licensee may accompany the licensee to the office
20 conference.

21 (B) Prior to or at the office conference, the licensee may submit to the
22 executive officer declarations and documents pertinent to the subject matter of the
23 letter of admonishment.

24 (C) The office conference is intended to be an informal proceeding and
25 shall not be subject to the provisions of the Administrative Procedure Act
26 (Chapter 3.5 (commencing with Section 11340), Chapter 4 (commencing with
27 Section 11370), Chapter 4.5 (commencing with Section 11400), and Chapter 5
28 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
Government Code).

(D) The executive officer, or his or her designee, may affirm, modify, or
withdraw the letter of admonishment. Within 14 calendar days from the date of
the office conference, the executive officer, or his or her designee, shall
personally serve or send by certified mail to the licensee's address of record with
the board a written decision. This decision shall be deemed the final
administrative decision concerning the letter of admonishment.

(E) Judicial review of the decision may be had by filing a petition for a
writ of mandate in accordance with the provisions of Section 1094.5 of the Code
of Civil Procedure within 30 days of the date the decision was personally served
or sent by certified mail.

The judicial review shall extend to the question of whether or not there
was a prejudicial abuse of discretion in the issuance of the letter of
admonishment.

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1 (2) Comply with the letter of admonishment and submit a written
2 corrective action plan to the executive officer documenting compliance. If an
3 office conference is not requested pursuant to this section, compliance with the
4 letter of admonishment shall not constitute an admission of the violation noted in
5 the letter of admonishment.

6 (d) The letter of admonishment shall be served upon the licensee
7 personally or by certified mail at the licensee's address of record with the board.

8 If the licensee is served by certified mail, service shall be effective upon
9 deposit in the United States mail.

10 (e) The licensee shall maintain and have readily available a copy of the
11 letter of admonishment and corrective action plan, if any, for at least three years
12 from the date of issuance of the letter of admonishment.

13 (f) Nothing in this section shall in any way limit the board's authority or
14 ability to do either of the following:

15 (1) Issue a citation pursuant to Section 125.9, 148, or 4067 or pursuant to
16 Section 1775 of Title 16 of the California Code of Regulations.

17 (2) Institute disciplinary proceedings pursuant to Article 19 (commencing
18 with Section 4300).

19 14. Health and Safety Code section 11357, subdivision (a) states:

20 Except as authorized by law, every person who possesses any
21 concentrated cannabis shall be punished by imprisonment in the county jail for a
22 period of not more than one year or by a fine of not more than five hundred
23 dollars (\$500), or by both such fine and imprisonment, or shall be punished by
24 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

25 REGULATORY PROVISIONS

26 15. California Code of Regulations, title 16, section 1769, states:

27

28 (b) When considering the suspension or revocation of a facility or a
personal license on the ground that the licensee or the registrant has been
convicted of a crime, the board, in evaluating the rehabilitation of such person and
his present eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or
offense(s).

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1 (4) Whether the licensee has complied with all terms of parole,
2 probation, restitution or any other sanctions lawfully imposed against the licensee.

3 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

10 COST RECOVERY

11 17. Section 125.3 of the Code provides, in pertinent part, that the Board may request
12 the administrative law judge to direct a licentiate found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
15 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
16 may be included in a stipulated settlement.

17 DRUG

18 18. Cannabinoids (Marijuana) are dangerous drugs pursuant to section 4022 and are
19 Schedule I controlled substances as designated by Health and Safety Code section 11054,
20 subdivision (d)(13).

21 FIRST CAUSE FOR DISCIPLINE

22 (Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)

23 19. Respondent is subject to disciplinary action under Code section 4301, subdivision
24 (f), in that on January 31, 2014, Respondent unlawfully possessed, without a doctor's
25 recommendation/order, approximately 0.2 grams of concentrated cannabis (Marijuana), an act
26 involving moral turpitude, dishonesty, fraud, or deceit. The circumstances are as follows:

27 a. On January 31, 2014, Respondent was stopped for an inoperative brake
28 light while driving in the vicinity of Harvard Avenue and Stanford Court in Irvine, California.

1 Officers of the Irvine Police Department (IPD) who initiated the enforcement stop immediately
2 smelled Marijuana coming from inside Respondent's car. When asked, Respondent initially
3 denied having Marijuana in his car. Upon further questioning, however, Respondent admitted to
4 having some Marijuana underneath his seat. During a search of Respondent's car subsequent to
5 the enforcement stop, the officers found a grinder and a capsule, which contained pressed
6 hashish (concentrated Marijuana). The hashish weighed 0.2 grams, for which Respondent did not
7 have a doctor's recommendation to possess. Respondent was thereafter transported to an IPD
8 detention facility for processing of his arrest and subsequently transferred to the Orange County
9 Jail.

10 b. As a result of his arrest, a criminal action was filed against Respondent.
11 On February 13, 2014, in a criminal proceeding entitled *The People of the State of California vs.*
12 *Andrew Luis Godinez, aka Andrew Godinez*, in Orange County Superior Court, Harbor Justice
13 Center, Newport Beach Facility Case Number 14HM01432, Respondent was charged with
14 violating Health and Safety Code section 11357, subdivision (a), possession of concentrated
15 cannabis, a misdemeanor. On March 18, 2014, pursuant to a motion by the People of the State of
16 California, the criminal case against Respondent was dismissed in exchange for Respondent's
17 voluntary provision of a sample of his DNA.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Violation of Drug Laws)**

20 20. Respondent is subject to disciplinary action under Code section 4301, subdivision
21 (j) in that Respondent violated Health and Safety Code section 11357, subdivision (a), a statute
22 of the State of California regulating controlled substances and dangerous drugs, by unlawfully
23 possessing concentrated cannabis, without a doctor's recommendation, as detailed in paragraph
24 19, above, and incorporated herein by this reference.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Violation of Pharmacy Laws)**

27 21. Respondent is subject to disciplinary action under Code section 4301, subdivision
28 (o), in that Respondent possessed a controlled substance (concentrated cannabis) without a

1 prescription in violation of Code section 4060, as detailed in paragraph 19, above, and
2 incorporated herein by this reference, in violation of pharmacy law.

3 **DISCIPLINARY CONSIDERATIONS**

4 22. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges:

6 23. On July 11, 2013, Respondent drove through a sobriety and driver's license
7 checkpoint on Alondra Boulevard in Bellflower, California. While stopped at the checkpoint, a
8 deputy from the Los Angeles County Sheriff's Department smelled marijuana coming from
9 inside respondent's vehicle. Respondent admitted to smoking marijuana and was asked to exit
10 his vehicle. During a search for the source of the marijuana smell, the deputy found a clear glass
11 containing a green leafy substance resembling marijuana. Respondent failed the series of field
12 sobriety tests and was arrested for driving while under the influence of marijuana and driving
13 while in possession of marijuana, misdemeanors.

14 24. On November 19, 2013, under Code section 4315, the Board issued Respondent a
15 Letter of Admonishment. The letter admonished Respondent for the following:

16 a. Respondent violated Code section 4301, subdivision (h), for
17 unprofessional conduct, administering to himself, of any controlled substance, or the use of any
18 dangerous drug.

19 b. Respondent violated Code section 4301, subdivision (j), for violation of
20 any statute of California or of the United states regulating controlled substances or dangerous
21 drugs.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 97718,
26 issued to Andrew Luis Godinez;

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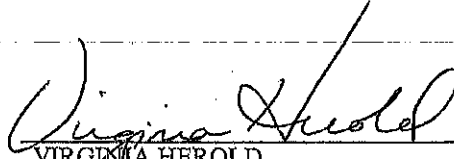
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1 2. Ordering Andrew Luis Godinez to pay the Board of Pharmacy the reasonable costs
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code
3 section 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.
5
6

7
8 DATED: _____

11/15/14



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

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12 SD2014707173
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