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

In the Matter of the Petition to Revoke  
Probation Against:

**ENRIQUE RODRIGUEZ**  
**1737 Via Lacqua**  
**San Lorenzo, CA 94580**

**Pharmacy Technician Registration No. TCH  
72559**

Respondent.

Case No. 6163  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 7, 2017, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the California State Board of Pharmacy (Board), filed Petition to Revoke Probation No. 6163 against Enrique Rodriguez (Respondent) before the Board. (Petition to Revoke Probation attached as Exhibit A.)
2. On or about December 4, 2006, the Board issued Pharmacy Technician License Number TCH 72559 to Respondent. The Pharmacy Technician license expired on June 30, 2016, and has not been renewed.
3. On or about August 31, 2017, Respondent was served by Certified and First Class Mail copies of the Petition to Revoke Probation No. 6163, Statement to Respondent, Notice of

1 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,  
2 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and  
3 Professions Code section 4100, is required to be reported and maintained with the Board.

4 Respondent's address of record was and is:

5 1737 Via Lacqua  
6 San Lorenzo, CA 94580.

7 4. Service of the Petition to Revoke Probation was effective as a matter of law under the  
8 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions  
9 Code section 124.

10 5. Government Code section 11506(c) states, in pertinent part:

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

16 6. The Board takes official notice of its records and the fact that Respondent failed to  
17 file a Notice of Defense within 15 days after service upon him of the Petition to Revoke  
18 Probation, and therefore waived his right to a hearing on the merits of Petition to Revoke  
19 Probation No. 6163.

20 7. California Government Code section 11520(a) states, in pertinent part:

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds  
26 Respondent is in default. The Board will take action without further hearing and, based on the  
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.  
6163, finds that the charges and allegations in Petition to Revoke Probation No. 6163 are  
separately and severally found to be true and correct by clear and convincing evidence.

DETERMINATION OF ISSUES

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2       1.     Based on the foregoing findings of fact, Respondent Enrique Rodriguez has subjected  
3 his Pharmacy Technician Registration No. TCH 72559 to revocation.

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

5       3.     The Board is authorized to revoke Respondent’s Pharmacy Technician Registration  
6 based upon the following violations alleged in the Petition to Revoke Probation which are  
7 supported by the evidence contained in the Default Decision Evidence Packet in this case.:

- 8       a.     Failure to obey laws;
- 9       b.     Failure to appear for interviews with the Board;
- 10      c.     Failure to pay the Board its costs of investigation and prosecution; and
- 11      d.     Failure to participate in random drug screening.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 72559, heretofore issued to Respondent Enrique Rodriguez, 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 at 5:00 p.m. on December 6, 2017.

It is so ORDERED on November 6, 2017.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

DOJ Matter ID:OK2017901269

Attachment:  
Exhibit A: Petition to Revoke Probation

# Exhibit A

Petition to Revoke Probation

(ENRIQUE RODRIGUEZ)

1 XAVIER BECERRA  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 NICHOLAS TSUKAMAKI  
Deputy Attorney General  
4 State Bar No. 253959  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-0982  
Facsimile: (510) 622-2270  
7 E-mail: Nicholas.Tsukamaki@doj.ca.gov  
*Attorneys for Complainant Petitioner*

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

11  
12 In the Matter of the Petition to Revoke  
Probation Against:  
13 **ENRIQUE RODRIGUEZ**  
14 **1737 Via Lacqua**  
**San Lorenzo, CA 94580**  
15 **Pharmacy Technician Registration No. TCH**  
16 **72559**  
17 Respondent.

Case No. 6163  
**PETITION TO REVOKE PROBATION**

18  
19 Complainant alleges:

20 PARTIES

- 21 1. Virginia Herold (Complainant) brings this action solely in her official capacity as the  
22 Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.  
23 2. On or about December 4, 2006, the Board issued Pharmacy Technician License  
24 Number TCH 72559 to Enrique Rodriguez (Respondent). The Pharmacy Technician license  
25 expired on June 30, 2016, and has not been renewed.

26 PRIOR DISCIPLINARY MATTER

- 27 3. In a disciplinary action entitled "*In the Matter of the Accusation Against Enrique*  
28 *Rodriguez*," Case No. 5297, the Board issued a Decision, effective April 8, 2016, in which

1 Respondent's Pharmacy Technician license was revoked. However, the revocation was stayed  
2 and Respondent's Pharmacy Technician license was placed on probation for a period of four (4)  
3 years with certain terms and conditions. A copy of that Decision is attached as Exhibit A and is  
4 incorporated by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Board under the authority of  
7 the following terms and conditions of probation.

8 5. At all times after the effective date of Respondent's probation, Condition 13 stated, in  
9 pertinent part:

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

17 FIRST CAUSE TO REVOKE PROBATION

18 (Failure to Obey All Laws)

19 6. At all times after the effective date of Respondent's probation, Condition 2 stated, in  
20 pertinent part:

21 **Obey All Laws.** Respondent shall obey all state and federal laws and regulations.  
22 Respondent shall report any of the following occurrences to the Board, in writing, within seventy-  
23 two (72) hours of such occurrence:

- 24 a) an arrest or issuance of a criminal complaint for violation of any provision of the  
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
26 substances laws;
- 27 b) a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
28 criminal complaint, information or indictment;







1 13. Respondent's probation is subject to revocation because he failed to comply with  
2 Condition 15, referenced above, in that Respondent failed to participate in random drug  
3 screening.

4 PRAYER


5 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
6 Petition to Revoke Probation, and that following the hearing, the Board of Pharmacy issue a  
7 decision:

8 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 5297  
9 and imposing the disciplinary order that was stayed, thereby revoking Pharmacy Technician  
10 License No. TCH 72559 issued to Enrique Rodriguez;

11 2. Revoking or suspending Pharmacy Technician License No. TCH 72559 issued to  
12 Enrique Rodriguez;

13 3. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: 8/7/17



16 VIRGINIA K. HEROLD  
17 Executive Officer  
18 Board of Pharmacy  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

22 SF2017901041  
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# **Exhibit A**

**Decision and Order**

**Case No. 5297**

1 KAMALA D. HARRIS  
Attorney General of California  
2 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
3 NICHOLAS TSUKAMAKI  
Deputy Attorney General  
4 State Bar No. 253959  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1188  
6 Facsimile: (415) 703-5480  
E-mail: Nicholas.Tsukamaki@doj.ca.gov  
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:

Case No. 5297

12 **ENRIQUE RODRIGUEZ**  
1737 Via Lacqua  
13 San Lorenzo, CA 94580

**A C C U S A T I O N**

14 **Pharmacy Technician Registration No. TCH**  
172559

15 Respondent.  
16

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about December 4, 2006, the Board issued Pharmacy Technician Registration  
23 Number TCH 72559 to Enrique Rodriguez (Respondent). The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 June 30, 2016, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4011 of the Code provides that the Board shall administer and enforce both  
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300.1 of the Code states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 4060 of the Code provides, in relevant part:

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

27 ..."

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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
3 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
4 included in a stipulated settlement.

5 **FACTUAL BACKGROUND**

6 13. On or about April 10, 2014, the vehicle in which Respondent was traveling was  
7 stopped and searched at a music festival in Indio, California. Security guards working for the  
8 music festival discovered various drugs in the vehicle, including marijuana, approximately four  
9 (4) psilocybin mushrooms, and approximately twenty-eight (28)  
10 methylenedioxymethamphetamine (MDMA) pills, also known as ecstasy. While at the scene,  
11 Respondent told an officer with the Riverside County Sheriff's Office that the marijuana,  
12 psilocybin mushrooms, and MDMA pills belonged to Respondent.

13 **CAUSE FOR DISCIPLINE**

14 **(Illegal Possession of Controlled Substances)**

15 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j)  
16 and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that  
17 Respondent possessed controlled substances without a prescription. The circumstances of  
18 Respondent's conduct are set forth above in paragraph 13.

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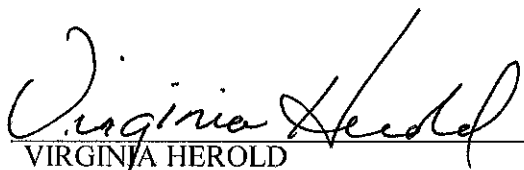
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**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 72559 issued to Enrique Rodriguez;
2. Ordering Enrique Rodriguez to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/23/15 

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

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