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

11 In the Matter of the Accusation Against:

Case No.

12 **SARA ELAINE GARCIA**  
13 **a.k.a SARA ELAINE HERNANDEZ**  
1805 Evelyn Circle  
Colton, CA 92324

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

14 Pharmacy Technician Registration  
15 No. TCH 46353

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 (Board), Department of Consumer  
22 Affairs.

23 2. On or about July 25, 2003, the Board issued Pharmacy Technician  
24 Registration No. TCH 46353 to Sara Elaine Garcia also known as Sara Elaine Hernandez  
25 (Respondent). The Pharmacy Technician Registration will expire on March 31, 2011, unless  
26 renewed.

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JURISDICTION

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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.

4. Business and Professions Code section 118, subdivision (b) provides that the suspension, expiration, or forfeiture by operation of law of a license does not deprive the Board of authority or jurisdiction to institute or continue with disciplinary action against the license or to order suspension or revocation of the license, during the period within which the certificate may be renewed, restored, reissued or reinstated.

5. 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.

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

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

7. Section 4301 of the Code states:  
"The board shall take action against any holder of a license who is guilty of

1 unprofessional conduct or whose license has been procured by fraud or misrepresentation or  
2 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
3 following:

4 (a) Gross immorality.

5 .....

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

9 .....

10 (l) The conviction of a crime substantially related to the qualifications, functions,  
11 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
12 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
13 substances or of a violation of the statutes of this state regulating controlled substances or  
14 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
15 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
16 The board may inquire into the circumstances surrounding the commission of the crime, in order  
17 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
18 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
19 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
20 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
21 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
22 the judgment of conviction has been affirmed on appeal or when an order granting probation is  
23 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
24 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
25 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
26 or indictment.”

27 .....

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





1 armed with a firearm during commission of crimes]. Each of the acts is categorized as a serious  
2 felony.

3 **THIRD CAUSE FOR DISCIPLINE**

4 *(Unprofessional Conduct - Moral Turpitude)*

5 15. Respondent is subject to disciplinary action under sections 4300 and 4301,  
6 subdivision (f) of the Code, on the grounds of unprofessional conduct, in that, Respondent  
7 committed acts of moral turpitude, as set forth above in paragraphs 14 (a), (b) and (c). Any act,  
8 in and of itself, is an independent ground for disciplinary action against Respondent.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 *(Unprofessional Conduct - Conduct Warranting Denial of a License)*

11 16. Respondent is subject to disciplinary action under section 4300 and 4301,  
12 subdivisions (p), of the Code, on the grounds of unprofessional conduct, in that, Respondent  
13 committed conduct warranting denial of a license, as set forth above in paragraphs 14 (a), (b) and  
14 (c). Any conduct, in and of itself, is an independent ground for disciplinary action against  
15 Respondent.

16 **PRAYER**

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

- 19 1. Revoking or suspending Pharmacy Technician Registration Number  
20 TCH 46353 issued to Sara Elaine Hernandez;
- 21 2. Ordering Sara Elaine Hernandez to pay the Board the reasonable costs of  
22 the investigation and enforcement of this case, pursuant to Business and Professions Code  
23 section 125.3; and

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

DATED: 10/29/09

  
VIRGINIA DEROLD  
Executive Officer  
Board of Pharmacy  
State of California  
Complainant