

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
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
Attorneys for Complainant
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9 **BEFORE THE**
10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 3657

13 **JOSE JUAN RAMOS**
830 Cleveland Road
14 Glendale, CA 91202

A C C U S A T I O N

15 c/o Ironwood State Prison
CDC # G61666
16 P.O. Box 2229
Blythe, CA 92226

17 **Pharmacy Technician License No. TCH 38837**

18 Respondent.
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21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about July 20, 2001, the Board of Pharmacy issued Pharmacy Technician
26 License Number TCH 38837 to Jose Juan Ramos (Respondent). The Pharmacy Technician.
27 License was in full force and effect at all times relevant to the charges brought herein and will
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1 expire on November 30, 2010, unless renewed. On or about April 23, 2010, the Board notified
2 Respondent that his Pharmacy Technician License was automatically suspended pursuant to
3 Business and Professions Code section 4311, subdivision (a), and shall remain suspended until at
4 least December 1, 2019 (during period of incarceration), or until further order of the Board.

5 **JURISDICTION**

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

9 4. Section 4032 of the Code states:

10 "License' means and includes any license, permit, registration, certificate, or exemption
11 issued by the board and includes the process of applying for and renewing the same."

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

14 6. Section 4301 of the Code states, in part, that:

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

18 ...

19 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
20 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
21 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
22 to the extent that the use impairs the ability of the person to conduct with safety to the public the
23 practice authorized by the license.

24 ...

25 "(l) The conviction of a crime substantially related to the qualifications, functions, and
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled

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

15 7. Section 490 of the Code states, in part, that:

16 "(a) In addition to any other action that a board is permitted to take against a licensee, a
17 board may suspend or revoke a license on the ground that the licensee has been convicted of a
18 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
19 or profession for which the license was issued.

20 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
21 discipline a licensee for conviction of a crime that is independent of the authority granted under
22 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
23 of the business or profession for which the licensee's license was issued.

24 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
25 conviction following a plea of nolo contendere. Any action that a board is permitted to take
26 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
27 the judgment of conviction has been affirmed on appeal, or when an order granting probation is

1 made suspending the imposition of sentence, irrespective of a subsequent order under the
2 provisions of Section 1203.4 of the Penal Code."

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

7 REGULATORY PROVISIONS

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

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

15 COST RECOVERY

16 10. Section 125.3 of the Code states that the Board may request the administrative law
17 judge to direct a licentiate found to have committed a violation or violations of the licensing act to
18 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

19 FIRST CAUSE FOR DISCIPLINE

20 **(Convictions of Substantially-Related Crimes)**

21 11. Respondent has subjected his license to disciplinary action under sections 4301,
22 subdivision (l), and 490, in conjunction with California Code of Regulations, title 16, section
23 1770, in that Respondent was convicted of crimes substantially related to the qualifications,
24 functions or duties of a licensed pharmacy technician, as follows:

25 a. On or about November 18, 2008, in the criminal proceeding entitled *People of the*
26 *State of California v. Jose Juan Ramos (11/10/73), aka Tito* (Super. Ct. Los Angeles County,
27 2008, No. GA072253), Respondent was found guilty following a jury trial of one felony count of
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1 violating Penal Code sections 245, subdivision (a)(1) (assault with a deadly weapon), with special
2 allegations of violating 186.22(b)(1)(B) (offense committed in association with a criminal street
3 gang), 12022.5(A) (offense committed with use of a fire arm). On or about March 25, 2009, the
4 Court sentenced Respondent to a state prison term of twelve (12) years with a total credit of 477
5 days for time served. Pursuant to Penal Code section 186.30, Respondent was ordered to register
6 as a street gang participant with the local law enforcement agency upon release from custody.

7 b. The circumstances surrounding the conviction are that on or about December 23,
8 2007, victim R.E. was sitting in his parked vehicle eating his lunch, when he was approached by
9 Respondent. Respondent stated to R.E. "West Side Locos bitch, this is my turf." R.E. told
10 Respondent that he didn't want any trouble. Respondent told R.E. to "Shut the f--- up," shoved a
11 semi-automatic gun into the victim's ribcage, and stated, "This is my turf, west side bitch do you
12 know where the f--- you are." Respondent then left the area. Subsequently, Respondent was
13 arrested by an officer from the Glendale Police Department for violating Penal Code sections
14 245(A)(1) (assault with a deadly weapon) and 186.22(b) (participating with a criminal street
15 gang).

16 c. On or about July 23, 2001, Respondent was convicted of one misdemeanor count of
17 violating Vehicle Code section 23152, subdivision (b) (driving under the influence of alcohol
18 with 0.08 percent BAC) in the criminal proceeding entitled *The People of the State of California*
19 *v. Jose Juan Ramos* (Super. Ct. Los Angeles County, 2001, No. 1BU120801).

20 d. The circumstances surrounding the conviction are that on or about May 20, 2001, the
21 California Highway Patrol stopped Respondent for failing to stop at a red light. During the stop,
22 officers' noticed signs of intoxication. Respondent's eyes were red and watery and his speech
23 was slurred. Respondent performed and failed field sobriety tests. Consequently, he was
24 arrested for driving a vehicle while under the influence of alcohol and/or drugs.

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