

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
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

7 *Attorneys for Complainant*

8
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. 4305

13 **MARIO ALBERTO CANALES**
1237 S. 2nd Street, #D
14 Alhambra, CA 91801

ACCUSATION

15 **Pharmacy Technician License No. TCH 111200**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about February 28, 2011, the Board issued Pharmacy Technician License No.
24 TCH 111200 to Mario Alberto Canales (Respondent). The Pharmacy Technician License expired
25 on May 31, 2012, and has not been renewed.

26 **JURISDICTION**

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

1 **STATUTORY PROVISIONS**

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

6 5. Section 490 provides that a board may suspend or revoke a license on the ground that
7 the licensee has been convicted of a crime substantially related to the qualifications, functions, or
8 duties of the business or profession for which the license was issued.

9 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
10 revoked."

11 7. Section 4301 states, in pertinent part:

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

15

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

19

20 "(l) The conviction of a crime substantially related to the qualifications, functions, and
21 duties of a licensee under this chapter. . . ."

22 **REGULATORY PROVISION**

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

24 "For the purpose of denial, suspension, or revocation of a personal or facility license
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

28 ///

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 9. Section 125.3 provides that the Board may request the administrative law judge to
5 direct a licensee found to have committed a violation or violations of the licensing act to pay a
6 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Conviction of a Substantially Related Crime)**

9 10. Respondent is subject to disciplinary action under sections 490 and 4301,
10 subdivision (l), on the grounds of unprofessional conduct, in that on or about January 24, 2012,
11 Respondent was convicted of a crime substantially related to the qualifications, functions or
12 duties of a registrant which to a substantial degree evidences his present or potential unfitness to
13 perform the functions authorized by his license in a manner consistent with the public health,
14 safety, or welfare, as follows:

15 a. On or about January 24, 2012, after pleading nolo contendere, Respondent was
16 convicted of one felony count of violating Penal Code section 236 (false imprisonment), in the
17 criminal proceeding entitled *The People of the State of California v. Mario Canales* (Super. Ct.
18 Los Angeles County, 2011, No. BA390526). The Court sentenced Respondent to serve 180 days
19 in jail, placed him on three (3) years probation, and ordered him to complete a 52-week sexual
20 offender treatment program.

21 b. The circumstances underlying the conviction occurred on or about October 31, 2011,
22 Respondent sexually assaulted a female acquaintance. Respondent was subsequently arrested for
23 rape with a foreign object, in violation of Penal Code section 264.1.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

26 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
27 that on or about October 30, 2011, on the grounds of unprofessional conduct, Respondent
28 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant

1 refers to, and by this reference incorporates, the allegations set forth above in paragraph 10, as
2 though fully set forth.

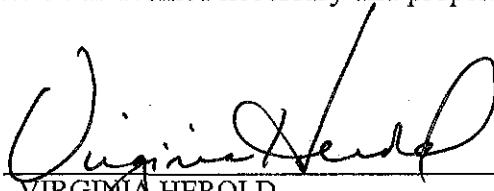
3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician License No. TCH 111200, issued to
7 Mario Alberto Canales;
- 8 2. Ordering Mario Alberto Canales to pay the Board the reasonable costs of the
9 investigation and enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

11
12
13 DATED: _____

10/9/12



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

14
15
16
17 LA2012506745
18 51123344.doc