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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. 4318

12 **NOEMI N. SANCHEZ**  
13 **828 E. Elm Avenue**  
**Tulare, CA 93274**

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **45504**

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

- 20  
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.  
23 2. On or about December 6, 2002, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 45504 to Noemi N. Sanchez (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on September 30, 2012, unless renewed.

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1 (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary  
2 certificate of licensure for any violation of the terms and conditions of probation. Upon  
3 satisfactory completion of probation, the board shall convert the probationary certificate to a  
4 regular certificate, free of conditions.

5 (e) The proceedings under this article shall be conducted in accordance with Chapter 5  
6 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
7 shall have all the powers granted therein. The action shall be final, except that the propriety of  
8 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
9 Civil Procedure."

10 5. Section 4301 of the Code states, in pertinent part, that :

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

14 ...

15 (j) The violation of any of the statutes of this state, or any other state, or of the United  
16 States regulating controlled substances and dangerous drugs.

17 ..."

18 6. Marijuana is a Schedule I controlled substance under Health & Safety Code section  
19 11054(d)(13).

20 7. Section 4060 of the Code states:

21 "No person shall possess any controlled substance, except that furnished to a person upon  
22 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
23 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
24 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
25 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
26 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
27 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
28 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,

1 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
2 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
3 labeled with the name and address of the supplier or producer.

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

7 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
8 administrative law judge to direct a licentiate found to have committed a violation or violations of  
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
10 enforcement of the case.

11 9. Section 118, subdivision (b), of the Code provides that the  
12 suspension/expiration/surrender/cancellation of a license shall not deprive the  
13 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period  
14 within which the license may be renewed, restored, reissued or reinstated.

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct-Violation of Statutes Regulating Controlled Substances and Dangerous  
17 Drugs)

18 10. Respondent is subject to disciplinary action under section 4301, subdivision (j)  
19 because she violated Penal Code section 11357(b) and Code section 4060 by possessing  
20 marijuana. Respondent pleaded no contest to violation of Penal Code section 11357(b), an  
21 infraction, in *People v. Noemi Navarro Sanchez*, Tulare County Superior Court Case No. 11-  
22 018658. The circumstances were that on October 17, 2011, Respondent was interviewed by peace  
23 officers at her home regarding complaints of gun shots made by Respondent's neighbors. At that  
24 time and place, peace officer observed a number of marijuana plants growing in five gallon  
25 planters on Respondent's property, and that Respondent knew were growing on her property. At  
26 that time and place, peace officers also found a bag of marijuana inside Respondent's motor  
27 vehicle that was parked in the driveway of Respondent's home.

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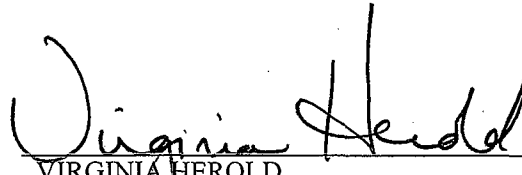
PRAYER

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 45504, issued to Respondent Noemi N. Sanchez;
2. Ordering Respondent Noemi N. Sanchez 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

7/19/12



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

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