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

11 In the Matter of the Accusation Against:

Case No. 4447

12 **BRENDA GRANADOS**  
13 **24588 Skyland Drive**  
14 **Moreno Valley, CA 92557**

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

15 **Pharmacy Technician Registration No. TCH**  
16 **111863**

Respondent.

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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, Department of Consumer Affairs.

22 2. On or about June 1, 2011, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 111863 to Brenda Granados (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on March 31, 2013, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or  
6 revoked.”

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

11 **STATUTORY AND REGULATORY PROVISIONS**

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate  
14 the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation  
18 furnished by the applicant or licensee.

19 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
20 revoke a license on the ground that the licensee has been convicted of a crime substantially  
21 related to the qualifications, functions, or duties of the business or profession for which the  
22 license was issued.

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1 8. Section 492 of the Code states:

2 Notwithstanding any other provision of law, successful completion of any  
3 diversion program under the Penal Code, or successful completion of an alcohol and  
4 drug problem assessment program under Article 5 (commencing with section  
5 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any  
6 agency established under Division 2 ([Healing Arts] commencing with Section 500)  
7 of this code, or any initiative act referred to in that division, from taking disciplinary  
8 action against a licensee or from denying a license for professional misconduct,  
9 notwithstanding that evidence of that misconduct may be recorded in a record  
10 pertaining to an arrest.

11 This section shall not be construed to apply to any drug diversion program  
12 operated by any agency established under Division 2 (commencing with Section 500)  
13 of this code, or any initiative act referred to in that division.

14 9. Section 493 of the Code states:

15 Notwithstanding any other provision of law, in a proceeding conducted by a  
16 board within the department pursuant to law to deny an application for a license or  
17 to suspend or revoke a license or otherwise take disciplinary action against a  
18 person who holds a license, upon the ground that the applicant or the licensee has  
19 been convicted of a crime substantially related to the qualifications, functions, and  
20 duties of the licensee in question, the record of conviction of the crime shall be  
21 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
22 and the board may inquire into the circumstances surrounding the commission of  
23 the crime in order to fix the degree of discipline or to determine if the conviction is  
24 substantially related to the qualifications, functions, and duties of the licensee in  
25 question.

26 As used in this section, "license" includes "certificate," "permit,"  
27 "authority," and "registration."

28 10. Section 4301 of the Code states:

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

.....

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

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

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(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 Section 1203.4 of the Penal code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

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

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11. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

12. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to

1 Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician  
2 assistant pursuant to Section 3502.1. This section shall not apply to the possession of  
3 any controlled substance by a manufacturer, wholesaler, pharmacy, physician,  
4 podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or  
5 physician assistant, when in stock in containers correctly labeled with the name and  
6 address of the supplier or producer.

7 Nothing in this section authorizes a certified nurse-midwife, a nurse  
8 practitioner, or a physician assistant to order his or her own stock of dangerous drugs  
9 and devices.

10 13. Health and Safety Code section 11170 provides that "No person shall prescribe,  
11 administer, or furnish a controlled substance for himself.

12 14. Health and Safety Code section 11171 provides that "No person shall prescribe,  
13 administer, or furnish a controlled substance except under the conditions and in the manner  
14 provided by this division."

15 15. Title 16, California Code of Regulations, section 1769, states:

16 ....

17 (b) When considering the suspension or revocation of a facility or a personal  
18 license on the ground that the licensee or the registrant has been convicted of a crime,  
19 the board, in evaluating the rehabilitation of such person and his present eligibility for  
20 a license will consider the following criteria:

21 (1) Nature and severity of the act(s) or offense(s).

22 (2) Total criminal record.

23 (3) The time that has elapsed since commission of the act(s) or offense(s).

24 (4) Whether the licensee has complied with all terms of parole, probation,  
25 restitution or any other sanctions lawfully imposed against the licensee.

26 (5) Evidence, if any, of rehabilitation submitted by the licensee.

27 16. Title 16, California Code of Regulations, section 1770, states:

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

1 17. Marijuana is a Schedule I controlled substance as designated by Health and Safety  
2 Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to Business &  
3 Professions Code section 4022.

4 18. Methamphetamine is a Schedule II controlled substance as designated by Health  
5 and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and  
6 Professions Code section 4022.

7 **COST RECOVERY**

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

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct –Use of Controlled Substances, Methamphetamine and**  
15 **Marijuana, Without a Prescription on September 29, 2009)**

16 20. Respondent is subject to disciplinary action under section 4301, subdivision (h), in  
17 that Respondent used Methamphetamine and Marijuana, controlled substances, without a  
18 prescription when she was arrested for driving under the influence of drugs/alcohol on September  
19 29, 2009. On that day, Respondent was stopped by a traffic officer when she drove through a  
20 stop sign and was weaving between lanes. Respondent's eyes were red and watery. Respondent  
21 did not have her license and a records check revealed that her license was suspended. Respondent  
22 admitted to the police, but later denied, that she had consumed alcohol. Respondent admitted to  
23 the police that she had consumed Marijuana. A Marijuana pipe was located in her car. At the  
24 police station, Respondent's blood test was positive for Amphetamines. Respondent was charged  
25 with driving under the influence of alcohol/drugs, but the Court dismissed the case pursuant to  
26 Penal Code section 1385.

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1 SECOND CAUSE FOR DISCIPLINE

2 (November 8, 2011 Criminal Conviction for Driving Under the Influence of Alcohol on  
3 August 9, 2011)

4 21. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision  
5 (l), of the Code in that Respondent was convicted of a crime substantially related to the  
6 qualifications, functions and duties of a pharmacy technician. The circumstances are as follows:

7 a. On or about November 8, 2011, in a criminal proceeding entitled *People of the State*  
8 *of California vs. Brenda Granados*, in the Riverside Superior Court, in case number  
9 RIM1113213, Respondent pled guilty to violating Vehicle Code section 23152(b) (driving under  
10 the influence of alcohol/ 0.08 percent), a misdemeanor.

11 b. The circumstances that led to the conviction are that on or about August 9, 2011,  
12 Riverside County Sheriffs responded to a citizen report that a car was weaving on the roadway  
13 and eventually parked in a parking lot. When contacted, Respondent appeared intoxicated. She  
14 admitted to drinking a tall can of beer at the park. Several empty beer bottles and cans were  
15 located in the car as well as cups full of liquid that smelled like alcohol. Respondent failed a field  
16 sobriety test and a Preliminary Alcohol Screening Test reflected a blood alcohol concentration of  
17 .138%. She was arrested for driving under the influence of alcohol. A subsequent blood test  
18 tested positive for Amphetamine and Methamphetamine as well as having a blood alcohol  
19 concentration of 0.14%. Respondent was charged with driving under the influence of  
20 alcohol/drugs and with driving under the influence of alcohol/.08%.

21 c. As a result of the conviction, Respondent was placed on three years summary  
22 probation and ordered to serve eight days in custody through an Electronic Monitoring Program.  
23 The Court granted Respondent's motion to convert this to eight days in a Work Release Program.  
24 She was also ordered to attend and complete a four month first offender DUI program and to pay  
25 \$2,283.45 in fines, fees, and restitution.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Use of Alcohol In a Dangerous Manner on August 9, 2011)**

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4 22. Respondent is subject to disciplinary action under section 4301, subdivision (h), in  
5 that Respondent used alcohol in a dangerous manner when she drove her car while intoxicated on  
6 August 9, 2011. The facts supporting this cause for discipline are in paragraph 21 above.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct – Violation of Drug and Pharmacy Laws)**

9 23. Respondent is subject to disciplinary action under Code section 4301,  
10 subdivisions (h), (j), and (o), and Health and Safety Code sections 11170 and 11171, in that  
11 Respondent possessed and consumed controlled substances, without a prescription in violation of  
12 Code section 4060, as detailed in paragraphs 20 through 23, above, in violation of drug and  
13 pharmacy laws.

14 **FIFTH CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct – Battery on Partner While He Was Driving on March 8, 2012)**

16 24. Respondent is subject to disciplinary action under section 4301 in that she engaged in  
17 unprofessional conduct. On March 8, 2012, Respondent engaged in mutual combat with her  
18 boyfriend while he was driving their car, causing him injuries and causing him to swerve onto the  
19 shoulder of the road. Both parties suffered minor injuries from the altercation and both parties  
20 were arrested for violation of Penal Code section 243(e)(1) (Battery on Spouse/Partner). The  
21 district attorney did not press charges.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 111863,  
26 issued to Brenda Granados;

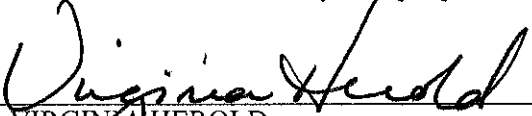


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2. Ordering Brenda Granados to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 1/7/13



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

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