

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
4 Senior Legal Analyst  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4601

13 **NEIVA NEREIDA RANGEL**  
14 **990 Margarita Drive, A104**  
**Corona, CA 92879**

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

15 **Pharmacy Technician Registration**  
16 **No. TCH 99226**

17 Respondent.

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.

23 2. On or about February 26, 2010, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 99226 to Neiva Nereida Rangel (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on November 30, 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 (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be  
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
9 by operation of law or by order or decision of the board or a court of law, the  
10 placement of a license on a retired status, or the voluntary surrender of a license by a  
11 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
12 investigation of, or action or disciplinary proceeding against, the licensee or to render  
13 a decision suspending or revoking the license.

14 **STATUTORY PROVISIONS**

15 6. Section 482 of the Code states:

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

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

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

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

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

26 8. Section 493 of the Code states:

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

1 As used in this section, "license" includes "certificate," "permit," "authority,"  
2 and "registration."

3 9. Section 4301 of the Code states:

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

8 . . . .

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

14 . . . .

15 (k) The conviction of more than one misdemeanor or any felony involving the  
16 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,  
17 or any combination of those substances.

18 (l) The conviction of a crime substantially related to the qualifications,  
19 functions, and duties of a licensee under this chapter. The record of conviction of a  
20 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
21 States Code regulating controlled substances or of a violation of the statutes of this  
22 state regulating controlled substances or dangerous drugs shall be conclusive  
23 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
24 be conclusive evidence only of the fact that the conviction occurred. The board may  
25 inquire into the circumstances surrounding the commission of the crime, in order to  
26 fix the degree of discipline or, in the case of a conviction not involving controlled  
27 substances or dangerous drugs, to determine if the conviction is of an offense  
28 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.

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1769, states:

3 . . . .

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

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

9 (2) Total criminal record.

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

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

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

14 11. California Code of Regulations, title 16, section 1770, states:

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

22 **COSTS**

23 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
24 administrative law judge to direct a licentiate found to have committed a violation or violations of  
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
26 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
27 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
28 included in a stipulated settlement.

**FIRST CAUSE FOR DISCIPLINE**

**(February 14, 2012 Criminal Conviction for Disturbing the Peace on October 9, 2011)**

13. Respondent has subjected her registration to discipline under sections 490 and 4301,  
subdivision (l) of the Code in that she was convicted of a crime that is substantially related to the  
qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

1 a. On or about February 14, 2012, in a criminal proceeding entitled *People of the*  
2 *State of California v. Nieva Nereida Rangel aka Neiva Nereida Rangel*, in Riverside County  
3 Superior Court, case number RIM1200152, Respondent was convicted on her plea of guilty to  
4 violating Penal Code section 415(2), disturbing the peace, a misdemeanor.

5 b. As a result of the conviction, on or about February 14, 2012, Respondent was  
6 granted summary probation for 12 months, fined \$400, and ordered to perform 64 hours of  
7 community service. On or about September 7, 2012, a hearing was held on Respondent's failure  
8 to perform community service. Respondent's probation was revoked and reinstated on the same  
9 terms. The court committed Respondent to the custody of the Riverside Sheriff for an additional  
10 term of 30 days in the Labor Program.

11 c. The facts that led to the conviction are that on or about 4:44 in the morning, the  
12 Corona Police Department was dispatched to Respondent's apartment in reference to a loud party.  
13 Upon arrival, an officer knocked on Respondent's apartment door several times before she  
14 answered. Inside the apartment the officer could see approximately 15 people standing around,  
15 beer cans throughout the room, and a strong odor of marijuana. The officer directed Respondent  
16 to turn off the music and end the party. Respondent stated she would take care of it and  
17 attempted to slam the door on the officer. The officer directed Respondent to step outside of the  
18 apartment; she began to argue with the officer and refused to shut down the party. Two of the  
19 partygoers approached the officer and became confrontational. The reporting party stated that  
20 Respondent frequently hosted loud parties that lasted throughout the night, and requested that  
21 Respondent be placed under citizen's arrest for disturbing the peace. Respondent was cited for  
22 disturbing the peace and released.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(April 9, 2012 Criminal Convictions for DUI on March 9, 2012)**

25 14. Respondent has subjected her registration to discipline under sections 490 and 4301,  
26 subdivision (l) of the Code in that he was convicted of crimes that are substantially related to the  
27 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

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1           a.     On or about April 9, 2012, in a criminal proceeding entitled *People of the State*  
2 *of California v. Neiva Nereida Rangel*, in Orange County Superior Court, case number  
3 12NM03672, Respondent was convicted on her plea of guilty to violating Vehicle Code section  
4 23152, subdivision (a), driving under the influence, and Vehicle Code section 23152, subdivision  
5 (b), driving with a blood alcohol concentration (BAC) of .08 or more, misdemeanors.

6 Respondent admitted, and the court found true the special allegation that Respondent's BAC was  
7 .15 percent or more, pursuant to Vehicle Code section 23578. The court certified Respondent's  
8 BAC as .18 percent.

9           b.     As a result of the convictions, on or about April 9, 2012, Respondent was  
10 granted informal probation for three years. Respondent was ordered to pay fees, fines, and  
11 restitution, complete a six-month Level 2 First Offender Alcohol Program and a MADD Victim  
12 Impact Panel session, and comply with DUI probation terms.

13           c.     The facts that led to the convictions are that on or about the evening of March  
14 9, 2012, officers with the California Highway Patrol (CHP) were dispatched to investigate a  
15 driver (Respondent) travelling westbound in the eastbound lanes of Highway 91 in the vicinity of  
16 Buena Park. Upon arrival, the CHP officer saw Respondent's vehicle stopped in the center  
17 divider facing the wrong direction. The CHP officer created a traffic break and attempted to  
18 intercept Respondent, but she made a U-turn on the freeway and exited. The officers made  
19 contact with Respondent; they noticed a shattered windshield and asked Respondent if she had  
20 been in a collision. Respondent told the officers it was from a previous accident. Respondent  
21 stated that she became lost and somehow her vehicle had spun out on the freeway. The officers  
22 could smell the odor of an alcoholic beverage on Respondent's breath. Respondent admitted to  
23 consuming alcohol earlier in the evening. She displayed the objective symptoms of intoxication:  
24 her eyes were red and watery, and her speech was slurred. Respondent was unable to complete  
25 the field sobriety tests as explained and demonstrated by the officer, and she was arrested for  
26 driving under the influence. Two breath samples provided by Respondent were analyzed with a  
27 BAC of .18 percent.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(September 7, 2012 Criminal Conviction for DUI on June 30, 2012)**

3 15. Respondent has subjected her registration to discipline under sections 490 and 4301,  
4 subdivision (l) of the Code in that she was convicted of a crime that is substantially related to the  
5 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

6 a. After Respondent failed to appear at her scheduled arraignment, on or about  
7 September 7, 2012, in a criminal proceeding entitled *People of the State of California v. Neiva*  
8 *Nereida Rangel*, in Riverside County Superior Court, case number RIM1211788, Respondent was  
9 convicted on her plea of guilty to violating Vehicle Code section 23152, subdivision (b), driving  
10 with a BAC of .08 or more, a misdemeanor. Respondent was also found guilty of driving on a  
11 license suspended for a previous DUI conviction (Veh. Code, § 14601.2(a)). The court found true  
12 the special allegations that Respondent was convicted of driving under the influence within the  
13 previous 10 years, and that her BAC was .15 percent or more. The court dismissed an additional  
14 count of violating Vehicle Code section 23152, subdivision (a), driving under the influence,  
15 pursuant to a plea agreement.

16 b. As a result of the conviction, on or about September 7, 2012, Respondent was  
17 sentenced to serve 50 days in the custody of the Riverside County Sheriff's Labor Program, with  
18 credit for four days. Respondent was granted summary probation for 48 months, and ordered to  
19 pay fines and penalties in the amount of \$2,044, complete a Drinking Driver Program, and  
20 comply with DUI probation terms. Respondent's probation has been revoked and reinstated for  
21 failure to complete the work release program, and failure to complete the Drinking Driver  
22 Program.

23 c. The facts that led to the convictions are that on or about the evening of June 30,  
24 2012, state park police officers were patrolling campgrounds at the State Recreational Area at  
25 Lake Perris. They observed a vehicle, driven by Respondent, commit several traffic violations.  
26 Respondent made an illegal U-turn in front of the officers, and proceeded in the opposite  
27 direction. The officers followed Respondent and conducted a traffic stop. Upon contact with  
28 Respondent, the officers observed a strong odor of an alcoholic beverage emitting from inside the

1 vehicle. Respondent admitted to consuming alcohol earlier in the evening. The officers had  
2 Respondent exit her vehicle to perform field sobriety tests. Respondent had a strong odor of an  
3 alcoholic beverage on her breath, her speech was slow, slurred, and repetitive, her eyes were  
4 bloodshot and watery, and she walked with an unsteady gait. Respondent was unable to complete  
5 the field sobriety tests as explained and demonstrated by the officer. Respondent was arrested for  
6 driving under the influence. Three breath samples provided by Respondent were analyzed at the  
7 scene by the preliminary alcohol screening device with a BAC of .210 and .225, respectively.  
8 Three additional breath samples taken at booking were analyzed with a BAC of .24 and .21  
9 percent.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 16. Respondent has subjected her registration to disciplinary action under section 4301,  
13 subdivision (h) of the Code for unprofessional conduct in that on or about March 9, 2012, and  
14 June 30, 2012, Respondent operated a motor vehicle while substantially impaired by alcoholic  
15 beverages, as described in paragraphs 14 and 15, above.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(Multiple Alcohol-Related Convictions)**

18 17. Respondent has subjected her registration to disciplinary action under section 4301,  
19 subdivision (k) of the Code for unprofessional conduct in that on or about April 9, 2012,  
20 Respondent was convicted of violating Vehicle Code section 23152, subdivision (a), driving  
21 under the influence of alcohol; and Vehicle Code section 23152, subdivision (b), driving with a  
22 BAC of .08 percent or more, as described in paragraph 14, above. On or about September 7,  
23 2012, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b),  
24 driving with a BAC of .08 or more, as described in paragraph 15, above.

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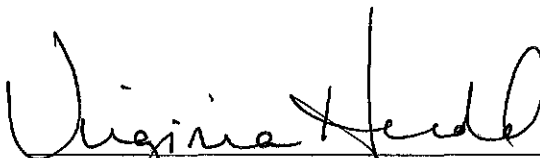
**PRAYER**

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 99226, issued to Neiva Nereida Rangel;
2. Ordering Neiva Nereida Rangel 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: \_\_\_\_\_

7/22/13



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

SD2013705125