

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 GEOFF WARD
Deputy Attorney General
4 State Bar No. 246437
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2660
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4740

11 **ROSANNA GUTIERREZ**
12 1339 E. La Deney Drive
13 Ontario, CA 91764

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
100088

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 24, 2010, the Board of Pharmacy issued Pharmacy Technician
22 Registration No. TCH 100088 to Rosanna Gutierrez (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on April 30, 2014, unless renewed.

25 **JURISDICTION**

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

28 4. Section 4300.1 grants the Board jurisdiction to discipline expired licenses.

1 dismissing the accusation, information, or indictment.”

2 **BOARD REGULATIONS**

3 7. California Code of Regulations, title 16, section 1770 provides criteria for
4 determining when a conviction is substantially related to a Board-licensed profession:

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

9 **COST RECOVERY**

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

13 **CAUSE FOR DISCIPLINE**

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

15 9. Respondent is subject to disciplinary action under sections 490 and 4301 subdivision
16 (I) in conjunction with California Code of Regulations, title 16, section 1770 because she was
17 convicted of misdemeanor carrying of a concealed weapon, a crime substantially related to the
18 qualifications, functions or duties of a pharmacy technician.

19 10. On or about January 11, 2013, after pleading nolo contendere, Respondent was
20 convicted of one misdemeanor count of violating Penal code section 25400, subsection (c)(6)(b)
21 [carrying a concealed weapon] in the criminal proceeding entitled *People v. Rosanna Gutierrez*
22 (Super. Ct. San Bernardino County, 2013, No. MWV1203794.) The Court sentenced her to serve
23 45 days in San Bernardino County Jail and 36 months' probation.

24 11. The circumstances surrounding the conviction are that on May 29, 2012, the Ontario
25 Police Department received an anonymous tip that someone was attempting to sell an assault rifle
26 out of her car. The responding officer found Respondent in her car, obtained her consent to
27 search it, and found an Olympic Arms .223 caliber assault rifle and a loaded thirty round
28 magazine wrapped in a towel in the trunk along with a small amount of marijuana.

