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

11 In the Matter of the Accusation Against:

Case No. 4742

12 **ARMANDO SALAS**
13 **1280 Kelley Avenue**
14 **Corona, CA 92882**

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 127899**

Respondent.

17
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 November 30, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 127899 to Armando Salas (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 November 30, 2014, 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 4300.1 states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued
9 license 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
11 a licensee shall not deprive the board of jurisdiction to commence or proceed with
any investigation of, or action or disciplinary proceeding against, the licensee or to
render a decision suspending or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Section 4301 of the Code states:

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

17

18 (h) The administering to oneself, of any controlled substance, or the use of any
19 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
20 injurious to oneself, to a person holding the 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.

21

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

24

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

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7. Section 4022 of the Code states:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, 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.

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

9. Health and Safety Code section 11550(a) states, in pertinent part:

No person shall use, or be under the influence of any controlled substance . . . except when administered by or under the direction of a person licensed the state to dispense, prescribe, or administer controlled substances.

COST RECOVERY

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

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1 **DRUGS**

2 11. Benzodiazepines are a Schedule IV controlled substance pursuant to Health and Safety Code
3 section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section
4 4022.

5 12. Opiates are Schedule I controlled substances as designated by Health and Safety Code
6 section 11054(b), and are dangerous drugs pursuant to Business and Professions Code section
7 4022.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct – Illegal Use of Controlled Substances – Benzodiazepines and
10 Opiates – and Resisting a Peace Officer on December 7, 2012)**

11 13. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
12 (o) of the Code on the grounds of unprofessional conduct, in that he illegally used the controlled
13 substances and dangerous drugs, benzodiazepines and opiates, without a prescription in violation
14 of section 4060 of the Code and Health and Safety Code section 11550(a). The circumstances are
15 as follows:

16 14. On or December 7, 2012, at approximately 4:00 p.m., Corona Police Department
17 Officers responded to 1526 Via Del Rio, Corona, California, reference a subject who appeared to
18 be under the influence of drugs and acting very strangely and aggressively towards his mother,
19 the reporting party (RP).

20 15. Upon arrival, officers contacted Respondent who appeared to be very agitated and
21 immediately began accusing the officers of harassing him. The RP told officers that Respondent
22 was under the influence of some sort of drug and that he had fallen inside her residence.
23 Respondent told officers that he had taken pain medication for his wrist, which he claimed he
24 injured at work, and continued to act aggressively towards the officers, cursing and clenching his
25 fists, sticking his chest out, and being uncooperative. Officers noticed that Respondent appeared
26 to be paranoid, aggressive and agitated, and was speaking slow and slurred at times. Officers
27 asked Respondent to sit down and he did not comply and continued to act aggressively, at which
28 point officers placed him under arrest for being under the influence of controlled substances and

1 for resisting arrest, and transported to the Corona Police Department Jail where a vial of blood
2 was drawn. Respondent was issued a citation and released from the Corona Police Department
3 Jail after a period of detoxification.

4 16. On or about February 28, 2013, in a criminal proceeding entitled *People of the State*
5 *of California vs. Armando Salas*, in the Superior Court of California, County of Riverside, in
6 Case No. RIM1302175, Respondent pled guilty to violating Health and Safety Code section
7 11550(a) (under the influence of a controlled substance), a misdemeanor. The Court deferred
8 entry of judgment for 18 months and placed Respondent on drug diversion pursuant to Penal
9 Code section 1000.

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11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct – Use of Controlled Substances to an Extent of in Manner
13 Dangerous or Injurious to Self or Others)**

14 17. Respondent is subject to disciplinary action under section 4301, subdivisions (h) of
15 the Code on the grounds of unprofessional conduct, in that on December 7, 2012, he used the
16 controlled substances benzodiazepines and opiates to an extent or in a manner dangerous or
17 injurious to himself or others, as is more fully described at paragraphs 17 through 20, above,
18 which are incorporated here by reference.

19 **DISCIPLINARY CONSIDERATIONS**

20 18. To determine the degree of discipline, if any, to be imposed on Respondent for the
21 violations alleged above, pursuant to California Code of Regulations, title 16, section 1769,
22 Complainant alleges:

23 a. On or about April 22, 2011, Respondent was cited by law enforcement for violating
24 Health and Safety Code section 11357(b) (possession of marijuana, less than 1 oz.). On or
25 about August 10, 2011, in the Superior Court of California, County of Riverside, in Case
26 No. 235632AS, Respondent was convicted of an infraction for violating said code section.

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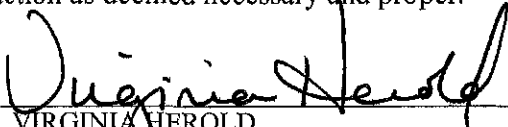
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PRAYER

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 127899 issued to Armando Salas;
2. Ordering Armando Salas 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: 10/21/13


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

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