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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. 4778

11 **SACARIAS CRUZ**  
12 **648 North Street**  
13 **Soledad, CA 93960**

**ACCUSATION**

14 **Pharmacy Technician License No. TCH 111111**

15 Respondent.

16 Complainant alleges:

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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 2, 2011, the Board of Pharmacy issued Pharmacy Technician  
22 License No. TCH 111111 to Sacarias Cruz (Respondent). The License was in full effect at all  
23 times relevant to the charges herein and will expire on January 31, 2015, unless renewed.

24  
25 JURISDICTION

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



1 9. California Code of Regulations, title 16, section 1770, states:

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

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

11  
12 FIRST CAUSE FOR DISCIPLINE

13 (Conviction of Substantially Related Crime(s))

14 11. Respondent is subject to discipline under section 4301(l) and/or section 490 of the  
15 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of  
16 substantially related crime(s), in that on or about October 19, 2004, in the criminal case *People v.*  
17 *Sacarias Cruz*, Case No. MK076785A in Monterey County Superior Court, Respondent was  
18 convicted of violating Vehicle Code section 23103.5, subdivision (a) (Reckless Driving Involving  
19 Alcohol [“Wet Reckless”]), a misdemeanor. The conviction was entered as follows:

20 a. On or about September 23, 2004, based on an incident that took place on or  
21 about June 8, 2004, Respondent was charged by criminal complaint in Case No. MK076785A  
22 with violating (1) Vehicle Code section 23152, subdivision (a) (Driving Under the Influence of  
23 Alcohol/Drugs), a misdemeanor, (2) Vehicle Code section 23152, subdivision (b) (Driving With  
24 Blood Alcohol of 0.08% or Higher), a misdemeanor, and (3) Vehicle Code section 23140,  
25 subdivision (a) (Minor Driving with Blood Alcohol of 0.05% or Higher), a misdemeanor.

26 b. On or about October 19, 2004, the Complaint was amended orally by motion of  
27 the District Attorney to add a fourth count, for violating (4) Vehicle Code section 23103.5,  
28 subdivision (a) (Reckless Driving Involving Alcohol [“Wet Reckless”]), a misdemeanor.

1 c. Respondent entered a plea of guilty to count (4), and the remaining counts were  
2 dismissed. Prior to entering his plea, Respondent was advised that in the event of a future arrest  
3 and conviction for driving under the influence or with a blood alcohol of 0.08% or higher within  
4 five (5) years, that this conviction would be charged as a prior conviction under Vehicle Code  
5 section 23152, subdivision (a) or subdivision (b). The Court found a factual basis for the plea.

6 d. Imposition of sentence was suspended and Respondent was placed on probation  
7 (conditional) for a period of three (3) years, on terms and conditions including time served of 1  
8 day in county jail, a driver's license restriction for three (3) months, chemical testing and field  
9 sobriety testing requirements, a 12-hour Wet Reckless Program, and payment of fines and fees.

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11 SECOND CAUSE FOR DISCIPLINE

12 (Conviction of Substantially Related Crime(s))

13 12. Respondent is subject to discipline under section 4301(l) and/or section 490 of the  
14 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of  
15 substantially related crime(s), in that on or about October 28, 2004, in the criminal case *People v.*  
16 *Sacarias Cruz*, Case No. MK076922A in Monterey County Superior Court, Respondent was  
17 convicted of violating Vehicle Code section 20002, subdivision (a) (Hit and Run: Property  
18 Damage), a misdemeanor, Penal Code section 148, subdivision (a)(1) (Resisting, Delaying, or  
19 Obstructing Peace Officer), a misdemeanor, and Penal Code section 69 (Obstructing/Resisting  
20 Executive Officer), a misdemeanor. The conviction was entered as follows:

21 a. On or about October 13, 2004, based on an incident that took place on or about  
22 August 4, 2004 during which a vehicle driven by Respondent was left abandoned at the scene of  
23 an accident after causing property damage, and Respondent was untruthful and evasive with the  
24 police who were investigating the accident, Respondent was charged by criminal complaint in  
25 Case No. MK076922A with violating (1) Vehicle Code section 20002, subdivision (a) (Hit and  
26 Run: Property Damage), a misdemeanor, (2) Penal Code section 148, subdivision (a)(1)  
27 (Resisting, Delaying, or Obstructing Peace Officer), a misdemeanor, and (3) Penal Code section  
28 69 (Obstructing/Resisting Executive Officer), a misdemeanor.



1 c. On or about February 28, 2013, Respondent entered pleas of nolo contendere to  
2 counts (1) and (3) of the Complaint, admitting the prior with regard to count (1), the Court found  
3 that there was a factual basis for the plea, and Respondent was convicted. All remaining counts  
4 were dismissed pursuant to the plea. Imposition of sentence was suspended and Respondent was  
5 placed on probation (conditional) for a period of five (5) years, on terms and conditions including  
6 45 days in county jail (4 days CTS) [eligible for Work Alternative Program], completion of a 2nd  
7 Offender Drinking Driver Program, installation of automobile interlock device for one (1) year,  
8 prohibition on driving without interlock device for that period, and payment of fines and fees.

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10 FOURTH CAUSE FOR DISCIPLINE

11 (Dangerous or Injurious Use of Alcohol)

12 14. Respondent is subject to discipline under section 4301(h) of the Code, in that, as  
13 described in paragraph(s) 11 and/or 13, he used alcohol in a dangerous or injurious manner.

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15 FIFTH CAUSE FOR DISCIPLINE

16 (Multiple Convictions Involving Alcohol)

17 15. Respondent is subject to discipline under section 4301(k) of the Code, in that, as  
18 described in paragraphs 11 and 13, he used alcohol in a dangerous or injurious manner.

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20 SIXTH CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct)

22 16. Respondent is subject to discipline under section 4301 of the Code in that, as  
23 described in paragraph(s) 11, 12, 13, and/or 14, Respondent engaged in unprofessional conduct.

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