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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. 4901

12 **SABRINA GUTIERREZ**  
13 **232 Pearl Street**  
14 **King City, CA 93930**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
16 **115441**

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 7, 2011, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 115441 to Sabrina Gutierrez (Respondent). The Pharmacy Technician  
24 Registration expired on September 30, 2013, and has not been renewed.

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1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 STATUTES

4 7. Section 4301 of the Code states, in relevant part:

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

8 . . .

9 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
10 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
11 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
12 substances or of a violation of the statutes of this state regulating controlled substances or  
13 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
14 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
15 The board may inquire into the circumstances surrounding the commission of the crime, in order  
16 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
17 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
18 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
19 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
20 of this provision. The board may take action when the time for appeal has elapsed, or the  
21 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
22 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
23 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
24 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
25 indictment."

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1 COST RECOVERY

2 8. Section 125.3 of the Code states, in relevant part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **CAUSE FOR DISCIPLINE**  
7 **(Conviction of a Crime)**  
8 **(Business and Professions Code § 4301, subd. (I))**

9 9. Respondent has subjected her Pharmacy Technician Registration to disciplinary  
10 action under Code section 4301, subdivision (I), in that she was convicted of a crime substantially  
11 related to the qualifications, functions, and duties of a pharmacy technician. Specifically, on or  
12 about October 4, 2013, in a criminal proceeding entitled *The People of the State of California v.*  
13 *Sabrina Gutierrez*, in the Monterey County Superior Court, Case Number SS131407A,  
14 Respondent was convicted, upon her plea of no lo contendere, to one count of violating section  
15 21810 of the Penal Code (possession of metal knuckles), a misdemeanor.<sup>1</sup> Respondent was  
16 sentenced to serve 40 days in county jail<sup>2</sup> and placed on probation for 3 years. The Court further  
17 ordered Respondent to pay a fine of \$255.00, and to pay various court fees. The facts underlying  
18 the arrest are explained below.

19 10. On or about July 16, 2013, Soledad police officers conducted a traffic stop of a  
20 vehicle being driven by Respondent's boyfriend, a known gang member who was on Post Release  
21 Community Supervision search terms. Respondent was a passenger in the vehicle. In her purse,  
22 on the floor of the vehicle, officers found five small zip lock baggies containing  
23 methamphetamine, two empty sandwich baggies with methamphetamine residue, a glass  
24 methamphetamine pipe, and brass knuckles. More methamphetamine was found in other parts of

25 <sup>1</sup> The District Attorney dismissed the other charges in the criminal complaint under Penal  
26 Code section 1385 (dismissal in furtherance of justice). These dismissed charges were violations  
27 of Health and Safety Code sections 11379, subdivision (a) (transportation of a controlled  
28 substance), 11378 (possession of a controlled substance for sale), and 11364, subdivision (a)  
(possession of controlled substance paraphernalia).

<sup>2</sup> The sentence allowed for Respondent to participate in the Work Alternative Program in lieu of jail time.

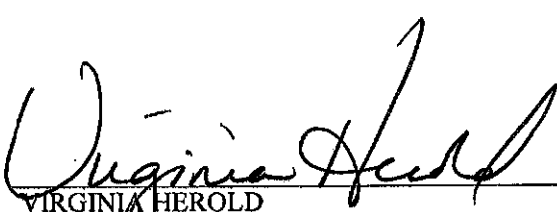
1 the vehicle. Respondent's boyfriend told police that he gave the drugs and the methamphetamine  
2 pipe to Respondent to hide in her purse when he noticed that the vehicle was being stopped.  
3 Respondent's boyfriend also told police that he gave the brass knuckles to Respondent "a while  
4 back" for "self defense." Respondent and her boyfriend were arrested. Respondent was initially  
5 charged with transporting a controlled substance (Health and Saf. Code § 11379, sub. (a)),  
6 possessing a controlled substance for sale (Health and Saf. Code § 11378), possessing controlled  
7 substance paraphernalia (Health and Saf. Code § 11364, subd. (a)), and possessing metal  
8 knuckles. (Pen. Code § 21810.)

9 PRAYER

10 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
11 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 115441,  
13 issued to Sabrina Gutierrez;
- 14 2. Ordering Sabrina Gutierrez to pay the Board of Pharmacy the reasonable costs of the  
15 investigation and enforcement of this case, under Business and Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: 5/2/14

  
20 VIRGINIA HEROLD  
21 Executive Officer  
22 Board of Pharmacy  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant

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