

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 State Bar No. 132645  
AMANDA DODDS  
4 Senior Legal Analyst  
600 West Broadway, Suite 1800  
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*

8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
11

12 In the Matter of the Accusation Against:

Case No. 5447

13 **ALICIA MARIA MADRID,**  
**AKA ALICIA MARIA ALATORRE**  
14 **1460 Sweetwater Lane**  
**Spring Valley, CA 91977**

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

15 **Pharmacy Technician Registration**  
16 **No. TCH 51670**

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 September 26, 2003, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 51670 to Alicia Maria Madrid, who is also known as Alicia Maria  
25 Alatorre (Respondent). The Pharmacy Technician Registration was in full force and effect at all  
26 times relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

## JURISDICTION

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

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

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by 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.

13  
14  
15  
16  
17  
18  
19  
20  
21  
22

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

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

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

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

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

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

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a 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

1 discipline or to determine if the conviction is substantially related to the qualifications,  
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority," and  
4 "registration."

5 9. Section 4301 of the Code states:

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

10 . . . .

11 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit,  
12 or corruption, whether the act is committed in the course of relations as a licensee or  
13 otherwise, and whether the act is a felony or misdemeanor or not.

14 . . . .

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

. . . .

### REGULATORY PROVISIONS

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

. . . .

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

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

**COSTS**

12. 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.

**FIRST CAUSE FOR DISCIPLINE**

**(February 6, 2015 Criminal Conviction for Felony Child Abuse)**

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 registered pharmacy technician. The circumstances are as follows:

- a. On February 6, 2015, in a criminal proceeding entitled *People of the State of California v. Alicia Maria Madrid*, in San Diego County Superior Court, case number CN324647, Respondent was convicted on her plea of guilty to violating Penal Code section 273a(a), willfully placing a child in a situation where his or her person or health is endangered, a felony.

1           b. As a result of the conviction, Respondent was sentenced to the low term of two  
2 years in state prison, suspended pending successful completion of formal probation for four years.

3 Respondent was ordered to complete 20 days of community service, and submit to a Fourth  
4 Amendment waiver. If ordered by her probation officer, Respondent would be required to  
5 complete treatment, therapy and/or counseling, and a parenting program. Respondent was  
6 ordered to stay away from her codefendant, pay fees, fines, and restitution, and comply with  
7 felony probation terms.

8           c. The facts that led to the conviction are that on the afternoon of October 11,  
9 2013, a deputy with the San Diego County Sheriff's Department observed a vehicle driven by  
10 Respondent with no front license plate. After conducting a traffic stop, the deputy observed  
11 Respondent's husband sitting in the back seat of the vehicle with their two-year-old daughter.  
12 Respondent's husband exhibited the signs and symptoms of recent heroin use. After having the  
13 occupants exit the vehicle, deputies found pieces of plastic consistent with packaging narcotics in  
14 the area adjacent to where the child had been sitting. After interviewing Respondent, deputies  
15 learned that Respondent permitted her husband to babysit their child while she was at work all  
16 day. She admitted she knew that he was a heroin addict, and that he was under the influence of  
17 heroin while babysitting their child, but she had no other choice for childcare. Respondent gave  
18 the Sheriff's Department permission to search her residence, and a search warrant was obtained.  
19 Sheriff's detectives located multiple baggies of heroin and methamphetamine, along with drug  
20 paraphernalia in the bathroom within easy reach of their two-year-old daughter. The residence  
21 was described as filthy and cluttered, with food on the floor and bugs crawling everywhere.  
22 Detectives found packaging materials, an electronic scale, and evidence of drug use through out  
23 the residence. In an interview with Respondent's husband, he admitted to being a heroin addict  
24 since he was 16 years old, and that he sells heroin out of the residence. Detectives confiscated all  
25 the evidence, Respondent and her husband were arrested, and child protective services took their  
26 daughter into protective custody.

27 ///

28 ///

