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7	Attorneys for Complainant		
: 8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:	Case No. 6027	
12	STEVEN HERNANDEZ	ACCUSATION	
13	2302 Larch St., Apt. 4 Alhambra, CA 91801		
14	Pharmacy Technician Registration		
15	No. TCH 145922		
16	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 (Board).		
22	2. On or about March 19, 2015, the Board issued Pharmacy Technician Registration No.		
23	TCH 145922 to Steven Hernandez (Respondent). The Pharmacy Technician Registration was in		
24	full force and effect at all times relevant to the charges brought herein and will expire on February		
25	28, 2017, unless renewed.		
26	JURISDICTION .		
27	3. This Accusation is brought before the Board under the authority of the following		
28	laws. All section references are to the Business and Professions Code unless otherwise indicated.		
		1	
		(STEVEN HERNANDEZ) ACCUSATION	

4. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.

5. Section 4300.1 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."

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STATUTORY PROVISIONS

6. Section 490 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.
7. Section 4301 states, in pertinent part:

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

"(j) The violation of any of the statutes of this state, of any other state, or of the UnitedStates regulating controlled substances and dangerous drugs.

"(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or

dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has 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

8.

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."

COST RECOVERY

9. Section 125.3 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.

10. CONTROLLED SUBSTANCE/DANGEROUS DRUG

"Methamphetamine," is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

11. Respondent is subject to disciplinary action under section 4301, subdivision (1), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that the Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician, as follows: On or about August 17, 2016, after pleading guilty, Respondent was convicted of one felony count of violating Health and Safety Code section 11379, subdivision (a) [sale/offer to sell/transportation of a controlled substance] in the criminal proceeding entitled The People of the State of California v. Steven Hernandez (Super. Ct. L.A. County, 2016, No. BA448793). The Court placed Respondent on 3 years formal probation, with terms and conditions. The circumstance surrounding the conviction are that on or about July 27, 2016, Respondent replied to a Craigslist add placed by an undercover detective, looking for individuals willing to transport, to furnish, or sell narcotics. Respondent made arrangements with the undercover detective to meet at a specified location and time and told him he would be bringing his connection/dealer with him. Respondent and another individual arrived at the location where both were subsequently placed under arrest by Los Angeles Police Department officers. During a search of the vehicle, officers found 24 individual baggies each with crystals and another baggie with shards of crystal all resembling crystal methamphetamine. Officers also found a digital scale, two cylinder glass pipes with residue resembling methamphetamine, and two books with pays and owes.

SECOND CAUSE FOR DISCIPLINE

(Illegal Possession of a Controlled Substance/Dangerous Drug)

12. Respondent is subject to disciplinary action under section 4301, subdivision (j) for violating statutes of this state regulating controlled substances and dangerous drugs, in that Respondent was found to be in possession of methamphetamine, a controlled substance/dangerous drug. Complainant refers to, and by reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

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1	PRAYER	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
3	and that following the hearing, the Board of Pharmacy issue a decision:	
4	1. Revoking or suspending Pharmacy Technician Registration No. TCH 145922, issued	
5	to Steven Hernandez;	
6	2. Ordering Steven Hernandez to pay the Board of Pharmacy the reasonable costs of the	
7	investigation and enforcement of this case, pursuant to Business and Professions Code section	
8	125.3; and,	
9	3. Taking such other and further action as deemed necessary and proper.	
10		
11		
12	DATED: 2/21/17 Auginia Kuld	
13	VIRGINIA HEROLD Executive Officer	
14	Board of Pharmacy Department of Consumer Affairs	
15	State of California Complainant	
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	(STEVEN HERNANDEZ) ACCUSATION	