

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3309

GENOVEVA PEREDA

27644 Genevieve Dr.
Sun City, CA 92586

Pharmacy Technician Registration No. TCH
30005

Respondent.

DECISION AND ORDER

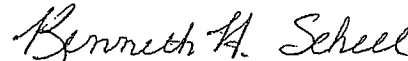
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 29, 2010.

It is so ORDERED on March 30, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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9 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3309

12 **GENOVEVA PEREDA**
13 **29403 Falcon Hill Drive**
Menifee, CA 92584
14 **Pharmacy Technician Registration**
No. TCH 30005

OAH No. L-2009070935
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15
16 Respondent.

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18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Edmund
23 G. Brown Jr., Attorney General of the State of California, and by Erin M. Sunseri, Deputy
24 Attorney General.

25 2. Respondent Genoveva Pereda (Respondent) is representing herself in this proceeding
26 and has chosen not to exercise her right to be represented by counsel.

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1 3. On or about July 20, 1999, the Board of Pharmacy issued Pharmacy Technician
2 Registration No. TCH 30005 to Respondent. The Pharmacy Technician Registration was in full
3 force and effect at all times relevant to the charges brought in Accusation No. 3309 and will
4 expire on June 30, 2011, unless renewed.

5 JURISDICTION

6 4. Accusation No. 3309 was filed before the Board of Pharmacy (Board), Department of
7 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
8 statutorily required documents were properly served on Respondent on June 30, 2009.
9 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
10 No. 3309 is attached as Exhibit A and incorporated herein by reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 3309. Respondent has also carefully read, and understands the effects of this
14 Stipulated Settlement and Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
17 her own expense; the right to confront and cross-examine the witnesses against her; the right to
18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
19 compel the attendance of witnesses and the production of documents; the right to reconsideration
20 and court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 3309.

4 9. Respondent agrees that her Pharmacy Technician Registration is subject to discipline
5 and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
6 Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
9 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
10 communicate directly with the Board regarding this stipulation and settlement, without notice to
11 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
12 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
13 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
14 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
15 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
16 not be disqualified from further action by having considered this matter.

17 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
18 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
19 effect as the originals.

20 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
21 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
22 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
23 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
24 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
25 writing executed by an authorized representative of each of the parties.

26 13. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 30005 issued
3 to Respondent Genoveva Pereda is revoked. However, the revocation is stayed and Respondent
4 is placed on probation for five (5) years on the following terms and conditions.

5 **1. Certification Prior to Resuming Work**

6 Respondent shall be automatically suspended from working as a pharmacy technician until
7 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
8 satisfactory proof of certification to the board. Respondent shall not resume working as a
9 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
10 year shall be considered a violation of probation. Respondent shall not resume working as a
11 pharmacy technician until notified by the board.

12 During suspension, respondent shall not enter any pharmacy area or any portion of any
13 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
14 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
15 devices or controlled substances are maintained. Respondent shall not do any act involving drug
16 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
17 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
18 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
19 substances. Respondent shall not resume work until notified by the board.

20 Subject to the above restrictions, respondent may continue to own or hold an interest in any
21 licensed premises by the board in which she holds an interest at the time this decision becomes
22 effective unless otherwise specified in this order.

23 Failure to comply with this suspension shall be considered a violation of probation.

24 **2. Obey All Laws**

25 Respondent shall obey all state and federal laws and regulations.

26 Respondent shall report any of the following occurrences to the board, in writing, within
27 seventy-two (72) hours of such occurrence:

28 an arrest or issuance of a criminal complaint for violation of any provision of the

1 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
2 substances laws

- 3 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
4 criminal complaint, information or indictment
- 5 a conviction of any crime
- 6 discipline, citation, or other administrative action filed by any state or federal agency
7 which involves respondent's license or which is related to the practice of pharmacy or
8 the manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
9 device or controlled substance.

10 Failure to timely report any such occurrence shall be considered a violation of probation.

11 **3. Report to the Board**

12 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
13 designee. The report shall be made either in person or in writing, as directed. Among other
14 requirements, respondent shall state in each report under penalty of perjury whether there has
15 been compliance with all the terms and conditions of probation. Failure to submit timely reports
16 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
17 in submission of reports as directed may be added to the total period of probation. Moreover, if
18 the final probation report is not made as directed, probation shall be automatically extended until
19 such time as the final report is made and accepted by the board.

20 **4. Interview with the Board**

21 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
22 with the board or its designee, at such intervals and locations as are determined by the board or its
23 designee. Failure to appear for any scheduled interview without prior notification to board staff,
24 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
25 the period of probation, shall be considered a violation of probation.

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1 **5. Cooperate with Board Staff**

2 Respondent shall cooperate with the board's inspection program and with the board's
3 monitoring and investigation of respondent's compliance with the terms and conditions of her
4 probation. Failure to cooperate shall be considered a violation of probation.

5 **6. Notice to Employers**

6 During the period of probation, respondent shall notify all present and prospective
7 employers of the decision in case number 3309 and the terms, conditions and restrictions imposed
8 on respondent by the decision, as follows:

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 respondent undertaking any new employment, respondent shall cause her direct supervisor,
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
12 tenure of employment) and owner to report to the board in writing acknowledging that the listed
13 individual(s) has/have read the decision in case number 3309 and the terms and conditions
14 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
15 supervisor(s) submit timely acknowledgement(s) to the board.

16 If respondent works for or is employed by or through a pharmacy employment service,
17 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
18 of the terms and conditions of the decision in case number 3309 in advance of the respondent
19 commencing work at each pharmacy. A record of this notification must be provided to the board
20 upon request.

21 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
22 (15) days of respondent undertaking any new employment by or through a pharmacy employment
23 service, respondent shall cause her direct supervisor with the pharmacy employment service to
24 report to the board in writing acknowledging that she has read the decision in case number 3309
25 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
26 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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1 Failure to timely notify present or prospective employer(s) or to cause that/those
2 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
3 probation.

4 "Employment" within the meaning of this provision shall include any full-time,
5 part-time, temporary or relief service or pharmacy management service as a pharmacy
6 technician or in any position for which a pharmacy technician license is a requirement
7 or criterion for employment, whether the respondent is considered an employee,
8 independent contractor or volunteer.

9 **7. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the
11 board its costs of investigation and prosecution in the amount of \$ 2511.50. Respondent shall
12 make said payments as follows: monthly payments as determined by the board or its designee.
13 There shall be no deviation from this schedule absent prior written approval by the board or its
14 designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
15 probation.

16 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
17 reimburse the board its costs of investigation and prosecution.

18 **8. Probation Monitoring Costs**

19 Respondent shall pay any costs associated with probation monitoring as determined by the
20 board each and every year of probation. Such costs shall be payable to the board on a schedule as
21 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
22 be considered a violation of probation.

23 **9. Status of License**

24 Respondent shall, at all times while on probation, maintain an active, current pharmacy
25 technician license with the board, including any period during which suspension or probation is
26 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

27 If respondent's pharmacy technician license expires or is cancelled by operation of law or
28 otherwise at any time during the period of probation, including any extensions thereof due to

1 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
2 terms and conditions of this probation not previously satisfied.

3 **10. License Surrender While on Probation/Suspension**

4 Following the effective date of this decision, should respondent cease work due to
5 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
6 respondent may tender her pharmacy technician license to the board for surrender. The board or
7 its designee shall have the discretion whether to grant the request for surrender or take any other
8 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
9 license, respondent will no longer be subject to the terms and conditions of probation. This
10 surrender constitutes a record of discipline and shall become a part of the respondent's license
11 history with the board.

12 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
13 license to the board within ten (10) days of notification by the board that the surrender is
14 accepted. Respondent may not reapply for any license, permit, or registration from the board for
15 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
16 applicable to the license sought as of the date the application for that license is submitted to the
17 board.

18 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
19 **Employment**

20 Respondent shall notify the board in writing within ten (10) days of any change of
21 employment. Said notification shall include the reasons for leaving, the address of the new
22 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
23 shall further notify the board in writing within ten (10) days of a change in name, residence
24 address and mailing address, or phone number.

25 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
26 phone number(s) shall be considered a violation of probation.

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1 **12. Tolling of Probation**

2 Except during periods of suspension, respondent shall, at all times while on probation, be
3 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
4 Any month during which this minimum is not met shall toll the period of probation, i.e., the
5 period of probation shall be extended by one month for each month during which this minimum is
6 not met. During any such period of tolling of probation, respondent must nonetheless comply
7 with all terms and conditions of probation.

8 Should respondent, regardless of residency, for any reason (including vacation) cease
9 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
10 respondent must notify the board in writing within ten (10) days of cessation of work and must
11 further notify the board in writing within ten (10) days of the resumption of the work. Any
12 failure to provide such notification(s) shall be considered a violation of probation.

13 It is a violation of probation for respondent's probation to remain tolled pursuant to the
14 provisions of this condition for a total period, counting consecutive and non-consecutive months,
15 exceeding thirty-six (36) months.

16 "Cessation of work" means calendar month during which respondent is not
17 working for at least 40 hours as a pharmacy technician, as defined in Business and
18 Professions Code section 4115. "Resumption of work" means any calendar month
19 during which respondent is working as a pharmacy technician for at least 40 hours as
20 a pharmacy technician as defined by Business and Professions Code section 4115.

21 **13. Violation of Probation**

22 If a respondent has not complied with any term or condition of probation, the board shall
23 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
24 all terms and conditions have been satisfied or the board has taken other action as deemed
25 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
26 to impose the penalty that was stayed.

27 If respondent violates probation in any respect, the board, after giving respondent notice
28 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that

1 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
2 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
3 a petition to revoke probation or an accusation is filed against respondent during probation, the
4 board shall have continuing jurisdiction, and the period of probation shall be automatically
5 extended until the petition to revoke probation or accusation is heard and decided.

6 **14. Completion of Probation**

7 Upon written notice by the board indicating successful completion of probation,
8 respondent's pharmacy technician license will be fully restored.

9 **15. No Ownership of Licensed Premises**

10 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
11 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
12 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
13 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
14 days following the effective date of this decision and shall immediately thereafter provide written
15 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
16 documentation thereof shall be considered a violation of probation.

17 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
18 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
19 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
20 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
21 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
22 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
23 that interest, but only to the extent of that position or interest as of the effective date of this
24 decision. Violation of this restriction shall be considered a violation of probation.

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1 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

2 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
3 attendance at a recognized and established substance abuse recovery support group in California,
4 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
5 or its designee. Respondent must attend at least one group meeting per week unless otherwise
6 directed by the board or its designee. Respondent shall continue regular attendance and submit
7 signed and dated documentation confirming attendance with each quarterly report for the duration
8 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
9 probation.

10 **17. Random Drug Screening**

11 Respondent, at her own expense, shall participate in random testing, including but not
12 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
13 screening program as directed by the board or its designee. Respondent may be required to
14 participate in testing for the entire probation period and the frequency of testing will be
15 determined by the board or its designee. At all times respondent shall fully cooperate with the
16 board or its designee, and shall, when directed, submit to such tests and samples for the detection
17 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
18 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
19 of probation. Upon request of the board or its designee, respondent shall provide documentation
20 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
21 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
22 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
23 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
24 shall be considered a violation of probation and shall result in the automatic suspension of work
25 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
26 board in writing.

27 During suspension, respondent shall not enter any pharmacy area or any portion of or any
28 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other

1 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
2 devices or controlled substances are maintained. Respondent shall not do any act involving drug
3 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
4 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
5 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
6 substances. Respondent shall not resume work until notified by the board.

7 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
8 Subject to the above restrictions, respondent may continue to own or hold an interest in any
9 licensed premises in which she holds an interest at the time this decision becomes effective unless
10 otherwise specified in this order.

11 Failure to comply with this suspension shall be considered a violation of probation.

12 **18. Notification of Departure**

13 Prior to leaving the probationary geographic area designated by the board or its designee for
14 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
15 writing of the dates of departure and return. Failure to comply with this provision shall be
16 considered a violation of probation.

17 **19. Abstain from Drugs and Alcohol Use**

18 Respondent shall completely abstain from the possession or use of alcohol, controlled
19 substances, dangerous drugs and their associated paraphernalia except when the drugs are
20 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
21 request of the board or its designee, respondent shall provide documentation from the licensed
22 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
23 treatment of the respondent. Failure to timely provide such documentation shall be considered a
24 violation of probation. Respondent shall ensure that she is not in the same physical location as
25 individuals who are using illicit substances even if respondent is not personally ingesting the
26 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
27 not supported by the documentation timely provided, and/or any physical proximity to persons
28 using illicit substances, shall be considered a violation of probation.

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20. Prohibition under California Code of Regulations, Title 16, Section 1793.8

California Code of Regulations, Title 16, Section 1793.8 provides, in pertinent part, as follows: A general acute care hospital, as defined in Health and Safety Code 1250(a), that has an ongoing clinical pharmacy program may allow pharmacy technicians to check the work of other pharmacy technicians in connection with the filling of floor and ward stock and unit dose distribution systems for patients admitted to the hospital whose orders have previously been reviewed and approved by a licensed pharmacist.

Respondent shall not check the work of other pharmacy technicians as detailed above during the term of her probation.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11/25/09 Genoveva Pereda
GENOVEVA PEREDA
Respondent

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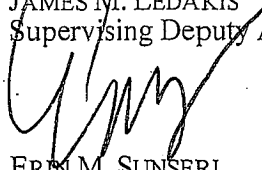
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 1-19-10

Respectfully Submitted,

EDMOND G. BROWN JR.
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



ERIN M. SUNSERI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3309

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 KATHLEEN B.Y. LAM, State Bar No. 95379
Deputy Attorney General
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7 Facsimile: (619) 645-2061
8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
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12 In the Matter of the Accusation Against:

Case No. 3309

13 GENOVEVA PEREDA
27644 Genevieve Drive
14 Sun City, CA 92586
15 Pharmacy Technician Registration
No. TCH 30005

ACCUSATION

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about July 20, 1999, the Board of Pharmacy issued Pharmacy
23 Technician Registration No. TCH 30005 to Genoveva Pereda (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on June 30, 2011, unless renewed.

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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, in pertinent part, "Every license issued may be suspended or revoked."

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

6. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

.....

7. Section 4301 of the Code states:

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

.....

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

.....

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

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4 8. Section 4022 of the Code states

5 "Dangerous drug" or "dangerous device" means any drug or device unsafe
6 for self-use in humans or animals, and includes the following:

7 (a) Any drug that bears the legend: "Caution: federal law prohibits
8 dispensing without prescription," "Rx only," or words of similar import.

9 (b) Any device that bears the statement: "Caution: federal law restricts this
10 device to sale by or on the order of a _____," "Rx only," or words of similar
11 import, the blank to be filled in with the designation of the practitioner licensed to
12 use or order use of the device.

13 (c) Any other drug or device that by federal or state law can be lawfully
14 dispensed only on prescription or furnished pursuant to Section 4006.

15 9. Section 4060 of the Code states, in pertinent part:

16 No person shall possess any controlled substance, except that furnished to
17 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
18 veterinarian, or naturopathic doctor. . . .

19 REGULATORY PROVISIONS

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

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

28 COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may
request the administrative law judge to direct a licensee 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.

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1 DRUG

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

5 FACTS

6 13. On or about the evening of November 14, 2006, a Riverside County
7 Sheriff's Deputy was at a Sun City, California, gas station investigating a domestic disturbance.
8 While talking to a female victim in a vehicle, Respondent pulled up to a gas pump. The female
9 victim indicated to the deputy that Respondent was her sister-in-law. The deputy contacted
10 Respondent and noted that she had a rancid odor on her breath, her pupils were dilated, and her
11 pulse rate was 130 BPM. Based on his observations, the deputy concluded Respondent was
12 under the influence of a central nervous system stimulant. Respondent consented to a search of
13 her vehicle where the deputy located in Respondent's purse four small baggies containing a total
14 of 1.76 grams of methamphetamine. The deputy also located a clear glass pipe containing white
15 residue in the purse. Respondent admitted to the officer that the methamphetamine was for her
16 personal use; she had been using meth for approximately five years and she had last used earlier
17 in the evening by smoking it in the glass pipe. Respondent further admitted that she obtains
18 methamphetamine from her brother. Respondent was arrested and gave a blood sample that
19 subsequently tested positive for methamphetamine.

20 14. In a court proceeding on or about March 5, 2007, entitled *People of the*
21 *State of California v. Genoveva Pereda*, Riverside County Superior Court Case No. SWF019470,
22 Respondent pled guilty to a violation of Health and Safety Code section 11377, subdivision (a),
23 possession of a controlled substance, reduced to a misdemeanor pursuant to Penal Code section
24 17, subdivision (b)(4). Entry of judgment was deferred and Respondent was ordered to enroll in
25 a drug program pursuant to Penal Code section 1000. At a hearing on or about September 5,
26 2008, the matter was dismissed by the court following Respondent's successful completion of the
27 drug program.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Violation of California Statutes Regulating
3 Controlled Substances & Dangerous Drugs)

4 15. Respondent is subject to disciplinary action under sections 4301,
5 subdivision (j) and 4060 of the Code in that on or about November 14, 2006, Respondent
6 knowingly violated California statutes regulating controlled substances and dangerous drugs
7 when she was found in possession and under the influence of methamphetamine, and controlled
8 substance paraphernalia as detailed in paragraph 13, above. Such acts constitute unprofessional
9 conduct and are substantially related to the qualifications, duties, and functions of a pharmacy
10 technician.

11 SECOND CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct – Self-Administration of a Controlled Substance)

13 16. Respondent is subject to disciplinary action under sections 4301,
14 subdivision (h) of the Code in that on or about November 14, 2006, Respondent admitted to
15 smoking methamphetamine, as detailed in paragraph 13, above. The self-administration of an
16 illegal controlled substance constitutes unprofessional conduct and is substantially related to the
17 qualifications, duties, and functions of a pharmacy technician.

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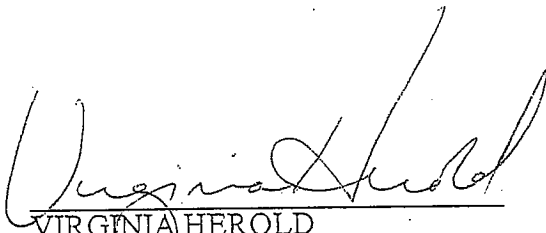
PRAYER

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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 30005, issued to Genoveva Pereda;
2. Ordering Genoveva Pereda 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/24/09



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

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