

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

In the Matter of the Accusation Against:

Case No. 4318

**NOEMI N. SANCHEZ**

14385 Avenue 232

Tulare, CA 93274

Pharmacy Technician License No. TCH 45504

Respondent.

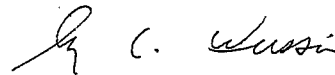
**DECISION AND ORDER**

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 October 14, 2013.

It is so ORDERED on September 12, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT HARRIS  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **NOEMI N. SANCHEZ**  
13 **828 E. Elm Avenue**  
14 **Tulare, CA 93274**  
15 **Pharmacy Technician Registration No. TCH**  
16 **45504**  
17 Respondent.

Case No. 4318  
**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

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

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
22 D. Harris, Attorney General of the State of California, by Sterling A. Smith, Deputy Attorney  
23 General.

24 2. Respondent Noemi N. Sanchez is representing herself in this proceeding and has  
25 chosen not to exercise her right to be represented by counsel.  
26



1           9. For the purpose of resolving the Accusation without the expense and uncertainty of  
2 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual  
3 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest  
4 those charges.

5           10. Respondent agrees that her Pharmacy Technician Registration is subject to discipline  
6 and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary  
7 Order below.

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

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

20           13. 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           14. 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 45504 issued  
3 to Respondent Noemi N. Sanchez (Respondent) is revoked. However, the revocation is stayed  
4 and Respondent is placed on probation for three (3) 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  
21 any licensed premises by the Board in which she holds an interest at the time this decision  
22 becomes 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 pharmacy technician registration or which is related to  
8 the practice of pharmacy or the manufacturing, obtaining, handling, distributing,  
9 billing, or charging for any drug, 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  
23 its designee. Failure to appear for any scheduled interview without prior notification to Board  
24 staff, or failure to appear at two (2) or more scheduled interviews with the Board or its designee  
25 during the period of probation, shall be considered a violation of probation.

26 **5. Cooperate with Board Staff**

27 Respondent shall cooperate with the Board's inspection program and with the Board's  
28 monitoring and investigation of respondent's compliance with the terms and conditions of her

1 probation. Failure to cooperate shall be considered a violation of probation.

2 **6. Notice to Employers**

3 During the period of probation, Respondent shall notify all present and prospective  
4 employers of the decision in Case No. 4318 and the terms, conditions and restrictions imposed on  
5 Respondent by the decision, as follows:

6 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
7 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,  
8 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's  
9 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
10 individual(s) has/have read the decision in Case No. 4318 and the terms and conditions imposed  
11 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or  
12 supervisor(s) submit timely acknowledgement(s) to the Board.

13 If Respondent works for or is employed by or through a pharmacy employment service, she  
14 must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms  
15 and conditions of the decision in Case No. 4318 in advance of the Respondent commencing work  
16 at each pharmacy. A record of this notification must be provided to the Board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
18 (15) days of Respondent undertaking any new employment by or through a pharmacy  
19 employment service, she shall cause her direct supervisor with the pharmacy employment service  
20 to report to the Board in writing acknowledging that she has read the decision in Case No. 4318  
21 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure  
22 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

23 Failure to timely notify present or prospective employer(s) or to cause that/those  
24 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of  
25 probation.

26 "Employment" within the meaning of this provision shall include any full-time,  
27 part-time, temporary or relief service or pharmacy management service as a pharmacy  
28 technician or in any position for which a pharmacy technician license is a requirement

1 or criterion for employment, whether the Respondent is considered an employee,  
2 independent contractor or volunteer.

3 **7. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, Respondent shall pay to the  
5 Board its costs of investigation and prosecution in the amount of \$1,275. Respondent may pay  
6 these costs by an installment plan with the prior approval of the Board or its designee. There shall  
7 be no deviation from an approved installment schedule absent prior written approval by the Board  
8 or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation  
9 of probation.

10 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility  
11 to reimburse the Board its costs of investigation and prosecution.

12 **8. Probation Monitoring Costs**

13 Respondent shall pay any costs associated with probation monitoring as determined by the  
14 Board each and every year of probation. Such costs shall be payable to the Board on a schedule  
15 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed  
16 shall be considered a violation of probation.

17 **9. Status of License**

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

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

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

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

26 Following the effective date of this decision, should Respondent cease work due to  
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, she  
28 may tender her pharmacy technician license to the Board for surrender. The Board or its designee



1 shall have the discretion whether to grant the request for surrender or take any other action it  
2 deems appropriate and reasonable. Upon formal acceptance of the surrender of the license,  
3 Respondent will no longer be subject to the terms and conditions of probation. This surrender  
4 constitutes a record of discipline and shall become a part of the Respondent's license history with  
5 the board.

6 Upon acceptance of the surrender, Respondent shall relinquish her pharmacy technician  
7 license to the board within ten (10) days of notification by the Board that the surrender is  
8 accepted. Respondent may not reapply for any license, permit, or registration from the Board for  
9 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
10 applicable to the license sought as of the date the application for that license is submitted to the  
11 Board.

12 **11. Notification of a Change in Name, Residence Address, Mailing Address or**  
13 **Employment**

14 Respondent shall notify the Board in writing within ten (10) days of any change of  
15 employment. Said notification shall include the reasons for leaving, the address of the new  
16 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
17 shall further notify the Board in writing within ten (10) days of a change in name, residence  
18 address and mailing address, or phone number.

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

21 **12. Tolling of Probation**

22 Except during periods of suspension, Respondent shall, at all times while on probation, be  
23 employed as a pharmacy technician in California for a minimum of forty (40) hours per calendar  
24 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,  
25 the period of probation shall be extended by one month for each month during which this  
26 minimum is not met. During any such period of tolling of probation, Respondent must  
27 nonetheless comply with all terms and conditions of probation.

28 Should Respondent, regardless of residency, for any reason (including vacation) cease

1 working as a pharmacy technician for a minimum of forty (40) hours per calendar month in  
2 California, she must notify the Board in writing within ten (10) days of cessation of work and  
3 must further notify the Board in writing within ten (10) days of the resumption of the work. Any  
4 failure to provide such notification(s) shall be considered a violation of probation.

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

8 "Cessation of work" means calendar month during which respondent is not  
9 working for at least forty (40) hours as a pharmacy technician, as defined in Business  
10 and Professions Code section 4115. "Resumption of work" means any calendar  
11 month during which Respondent is working as a pharmacy technician for at least  
12 forty (40) hours as a pharmacy technician as defined by Business and Professions  
13 Code section 4115.

14 **13. Violation of Probation**

15 If Respondent has not complied with any term or condition of probation, the Board shall  
16 have continuing jurisdiction over Respondent, and probation shall automatically be extended,  
17 until all terms and conditions have been satisfied or the Board has taken other action as deemed  
18 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
19 to impose the penalty that was stayed.

20 If Respondent violates probation in any respect, the Board, after giving Respondent notice  
21 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
22 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
23 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
24 a petition to revoke probation or an accusation is filed against Respondent during probation, the  
25 Board shall have continuing jurisdiction, and the period of probation shall be automatically  
26 extended until the petition to revoke probation or accusation is heard and decided.

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1           **14. Completion of Probation**

2           Upon written notice by the Board indicating successful completion of probation,  
3 Respondent's pharmacy technician license will be fully restored.

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

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

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

13           Upon one confirmed positive drug screen, Respondent shall begin regular attendance at a  
14 recognized and established substance abuse recovery support group in California, (e.g.,  
15 Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board or its  
16 designee. Respondent must attend at least one group meeting per week unless otherwise directed  
17 by the Board or its designee. Respondent shall continue regular attendance and submit signed  
18 and dated documentation confirming attendance with each quarterly report for the duration of  
19 probation. Failure to attend or submit documentation thereof shall be considered a violation of  
20 probation.

21           **17. Random Drug Screening**

22           Respondent, at her own expense, shall participate in random testing, including but not  
23 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
24 screening program as directed by the Board or its designee. Respondent may be required to  
25 participate in testing for the entire probation period and the frequency of testing will be  
26 determined by the Board or its designee. At all times Respondent shall fully cooperate with the  
27 Board or its designee, and shall, when directed, submit to such tests and samples for the detection  
28 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or

1 its designee may direct. Failure to timely submit to testing as directed shall be considered a  
2 violation of probation. Upon request of the Board or its designee, Respondent shall provide  
3 documentation from a licensed practitioner that the prescription for a detected drug was  
4 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely  
5 provide such documentation shall be considered a violation of probation. Any confirmed positive  
6 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a  
7 documented medical treatment shall be considered a violation of probation and shall result in the  
8 automatic suspension of work by Respondent. Respondent may not resume work as a pharmacy  
9 technician until notified by the Board in writing.

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

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

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

23 **18. Abstain from Drugs and Alcohol Use**

24 Respondent shall completely abstain from the possession or use of alcohol, controlled  
25 substances, dangerous drugs and their associated paraphernalia except when the drugs are  
26 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon  
27 request of the Board or its designee, Respondent shall provide documentation from the licensed  
28 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the

1 treatment of the Respondent. Failure to timely provide such documentation shall be considered a  
2 violation of probation. Respondent shall ensure that she is not in the same physical location as  
3 individuals who are using illicit substances even if Respondent is not personally ingesting the  
4 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
5 not supported by the documentation timely provided, and/or any physical proximity to persons  
6 using illicit substances, shall be considered a violation of probation.

7 **19. Prescription Coordination and Monitoring of Prescription Use**

8 Within thirty (30) days of the effective date of the decision, Respondent shall submit to the  
9 Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
10 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the  
11 Respondent's history [with the use of alcohol, controlled substances, and/or dangerous drugs,  
12 and/or of mental illness, and/or of gambling addiction] and who will coordinate and monitor any  
13 prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs.  
14 The approved practitioner shall be provided with a copy of the Board's adopted Stipulated  
15 Settlement and Disciplinary Order as its decision in Case No. 4318. A record of this notification  
16 must be provided to the Board upon request. Respondent shall sign a release authorizing the  
17 practitioner to communicate with the Board about Respondent's treatment(s). The coordinating  
18 physician, nurse practitioner, physician assistant, or psychiatrist shall report to the Board on a  
19 quarterly basis for the duration of probation regarding Respondent's compliance with this  
20 condition. If any substances considered addictive have been prescribed, the report shall identify a  
21 program for the time limited use of any such substances. The Board may require that the single  
22 coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in  
23 addictive medicine, or consult a specialist in addictive medicine. Should Respondent, for any  
24 reason, cease supervision by the approved practitioner, she shall notify the Board immediately  
25 and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician,  
26 nurse practitioner, physician assistant, or psychiatrist of Respondent's choice to the Board or its  
27 designee for its prior approval. Failure to timely submit the selected practitioner or replacement

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1 practitioner to the Board for approval, or to ensure the required reporting thereby on the quarterly  
2 reports, shall be considered a violation of probation.

3 If at any time an approved practitioner determines that Respondent is unable to practice  
4 safely or independently as a pharmacy technician, the practitioner shall notify the Board  
5 immediately by telephone and follow up by written letter within three (3) working days. Upon  
6 notification from the Board or its designee of this determination, Respondent shall be  
7 automatically suspended and shall not resume practice until notified by the Board that practice  
8 may be resumed.

9 During suspension, Respondent shall not enter any pharmacy area or any portion of the  
10 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
11 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices  
12 or controlled substances are maintained. Respondent shall not practice as a pharmacy technician  
13 nor do any act involving drug selection, selection of stock, manufacturing, compounding,  
14 dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to  
15 any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing  
16 of dangerous drugs and controlled substances. Respondent shall not resume practice until  
17 notified by the Board.

18 During suspension, Respondent shall not engage in any activity that requires the  
19 professional judgment of a pharmacy technician. Respondent shall not direct or control any  
20 aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy  
21 technician or a designated representative for any entity licensed by the Board.

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

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

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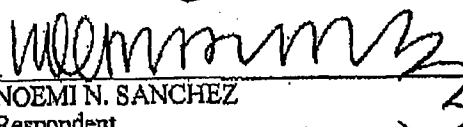
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ACCEPTANCE

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.

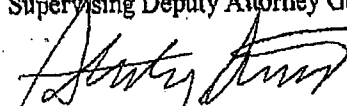
DATED: 4/24/2013   
NOEMI N. SANCHEZ  
Respondent

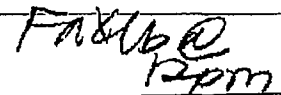
ENDORSEMENT

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: 4/24/2013

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
KENT HARRIS  
Supervising Deputy Attorney General

  
STERLING A. SMITH  
Deputy Attorney General  
Attorneys for Complainant



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**Exhibit A**

**Accusation No. 4318**

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Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4318

12 **NOEMI N. SANCHEZ**  
828 E. Elm Avenue  
13 Tulare, CA 93274

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **45504**

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.

22 2. On or about December 6, 2002, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 45504 to Noemi N. Sanchez (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on September 30, 2012, unless renewed.

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JURISDICTION

1  
2       3.    This Accusation is brought before the Board of Pharmacy (Board), Department of  
3 Consumer Affairs, under the authority of the following laws. All section references are to the  
4 Business and Professions Code unless otherwise indicated.

5       4.    Section 4300 of the Code states:

6       "(a) Every license issued may be suspended or revoked.

7       (b) The board shall discipline the holder of any license issued by the board, whose default  
8 has been entered or whose case has been heard by the board and found guilty, by any of the  
9 following methods:

10       (1) Suspending judgment.

11       "(2) Placing him or her upon probation.

12       (3) Suspending his or her right to practice for a period not exceeding one year.

13       (4) Revoking his or her license.

14       (5) Taking any other action in relation to disciplining him or her as the board in its  
15 discretion may deem proper.

16       (c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
17 board may, in its sole discretion, issue a probationary license to any applicant for a license who is  
18 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
19 may issue the license subject to any terms or conditions not contrary to public policy, including,  
20 but not limited to, the following:

21       (1) Medical or psychiatric evaluation.

22       (2) Continuing medical or psychiatric treatment.

23       (3) Restriction of type or circumstances of practice.

24       (4) Continuing participation in a board-approved rehabilitation program.

25       (5) Abstention from the use of alcohol or drugs.

26       (6) Random fluid testing for alcohol or drugs.

27       (7) Compliance with laws and regulations governing the practice of pharmacy.

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1 (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary  
2 certificate of licensure for any violation of the terms and conditions of probation. Upon  
3 satisfactory completion of probation, the board shall convert the probationary certificate to a  
4 regular certificate, free of conditions.

5 (e) The proceedings under this article shall be conducted in accordance with Chapter 5  
6 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
7 shall have all the powers granted therein. The action shall be final, except that the propriety of  
8 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
9 Civil Procedure."

10 5. Section 4301 of the Code states, in pertinent part, that :

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

14 ...  
15 (j) The violation of any of the statutes of this state, or any other state, or of the United  
16 States regulating controlled substances and dangerous drugs.

17 ..."

18 6. Marijuana is a Schedule I controlled substance under Health & Safety Code section  
19 11054(d)(13).

20 7. Section 4060 of the Code states:

21 "No person shall possess any controlled substance, except that furnished to a person upon  
22 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
23 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
24 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
25 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
26 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
27 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
28 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,

1 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
2 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
3 labeled with the name and address of the supplier or producer.

4 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a  
5 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and  
6 devices."

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

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

15 FIRST CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct-Violation of Statutes Regulating Controlled Substances and Dangerous  
17 Drugs)

18 10. Respondent is subject to disciplinary action under section 4301, subdivision (j)  
19 because she violated Health & Safety Code section 11357(b) and Code section 4060 by  
20 possessing marijuana. Respondent pleaded no contest to violation of Health & Safety Code  
21 section 11357(b), an infraction, in *People v. Noemi Navarro Sanchez*, Tulare County Superior  
22 Court Case No. 11-018658. The circumstances were that on October 17, 2011, Respondent was

23 interviewed by peace officers at her home regarding complaints of gun shots made by  
24 Respondent's neighbors. At that time and place, peace officer observed a number of marijuana  
25 plants growing in five gallon planters on Respondent's property, and that Respondent knew were  
26 growing on her property. At that time and place, peace officers also found a bag of marijuana  
27 inside Respondent's motor vehicle that was parked in the driveway of Respondent's home.

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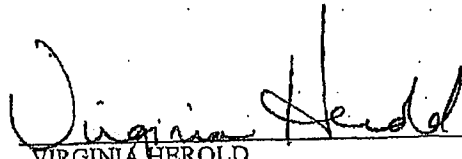
PRAYER

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 45504, issued to Respondent Noemi N. Sanchez;
2. Ordering Respondent Noemi N. Sanchez 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:

7/19/12



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

SA2012106355  
accusation.rtf