

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

In the Matter of the Petition to Revoke
Probation Against:

EBER SANCHEZ
6510 Falcon Avenue
Long Beach, CA 90805

Pharmacy Technician Registration No.
TCH 56286

Case No. 4535

OAH 2013070714

Respondent.

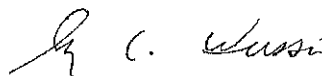
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted
by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 6, 2014.

It is so ORDERED on February 4, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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

In the Matter of the Petition
to Revoke Probation Against:

EBER ISAI SANCHEZ,

Pharmacy Technician
License No. TCH 56286

Respondent.

Case No. 4535

OAH No. 2013070714

PROPOSED DECISION

This matter was heard by Samuel D. Reyes, Administrative Law Judge, Office of Administrative Hearings, in Los Angeles, California, on November 20, 2013.

M. Travis Peery, Deputy Attorney General, represented Virginia Herold (Complainant).

Eber Isai Sanchez (Respondent) represented himself.

Complainant seeks to revoke probation and impose the stayed revocation of Respondent's license based on allegations that Respondent violated the terms of probation. Respondent did not dispute the allegations, but presented evidence in support of continued licensure.

Oral and documentary evidence was received at the hearing. The record was left open for the submission of written amendments to the Petition to Revoke Probation consistent with the amendments allowed at the hearing. On November 25, 2013, an Amendment to the Petition to Revoke Probation was received, which added the Fifth and Six Causes to Revoke Probation. The document has been marked as Exhibit 12, and has been received into evidence as a jurisdictional document memorializing the amendments allowed at the hearing. The matter was submitted for decision on November 25, 2013.

FACTUAL FINDINGS

1. Complainant filed the Petition to Revoke Probation in her official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs (Board).

2. On April 18, 2005, the Board issued Original Pharmacy Technician License Number TCH 56286 to Respondent. The license expired on June 30, 2013.

3. On March 23, 2012, the Board adopted a Stipulated Settlement and Disciplinary Order (Disciplinary Order), which became effective April 23, 2012, disciplining Respondent's license. Respondent stipulated to the truth of all the charges and allegations contained in the then-pending accusation, which involved three convictions substantially related to the qualifications, functions, and duties of a pharmacy technician, a 2008 conviction for knowing violation of a court order, a 2008 conviction for driving with a blood alcohol level exceeding .08% (2008), and a 2007 conviction for burglary. Under the terms of the Disciplinary Order, Respondent's license was revoked, which revocation was stayed for three years on terms and conditions that included the following conditions, numbers 1, 3, 7, 9, 17, and 20.

"1. **Certification Prior to Resuming Work.** Respondent shall be automatically suspended from working as a pharmacy technician until he is certified as defined by Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Respondent shall not resume working as a pharmacy technician until notified by the board. Failure to achieve certification within one (1) year shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the board.

[¶] ... [¶]

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

[¶] ... [¶]

"7. **Reimbursement of Board Costs.** As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$2,000 (two thousand dollars and no cents). Respondent shall make said payments on a schedule approved by the board. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

[¶] . . . [¶]

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

"If respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

[¶] . . . [¶]

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

[¶] . . . [¶]

"20. **Completion of Community Service Program or Anger Management Course.** Respondent must complete fifty (50) hours of community service each year of probation for the first two (2) years of probation or complete a board-approved anger management course. Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable

facility or agency for at least fifty (50) hours per year for the first two (2) years of probation or information regarding an anger management course in which respondent proposes enrollment. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program or of the anger management course. A record of this notification must be provided to the board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.” (Exh. 1, at pp. 22-28; emphasis in original.)

4. On April 10, 2012, Enforcement Analyst Tina Thomas sent a letter to Respondent explaining that he was required to participate in random drug testing, and providing instructions for enrolling in the monitoring program with a specified laboratory, FirstLab.

5. On April 23, 2012, Respondent met with Probation Monitor Joan Coyne, who reviewed the terms and conditions of probation with Respondent. Respondent signed the following acknowledgement: “The terms and conditions of my probation have been fully explained to me by the board representatives. I hereby acknowledge that I thoroughly understand these terms and conditions as set forth in the disciplinary action and that failure to comply may result in further disciplinary action.” (Exh 6.)

6. a. Respondent failed to report to the laboratory responsible for the random drug testing, FirstLab, on two dates, May 6 and May 7, 2012, and on May 8, 2012 the Board sent Respondent a letter notifying him about the noncompliance and directing him to check in with FirstLab on a daily basis. Respondent failed to report during the period of May 12 to May 16, 2012, and a second non-compliance letter was sent on May 17, 2012. Respondent failed to submit to random drug testing on May 1, 16, 19, 23, 29, 31, June 7, 23, 25, July 3, July 9, 15 and 28, 2012, and a third noncompliance letter was sent on August 6, 2012.

b. Respondent’s failure to report to FirstLab on the seven days set forth in factual finding 7.a. and his failure to submit to drug testing on the 13 days set forth in factual finding number 7.a. constitute a violation of probation condition number 17.

7. Respondent has failed to make any payments to satisfy his \$2,000 obligation to reimburse the Board for its costs of investigation and prosecution as required by probation condition number 7.

8. Respondent has not submitted any quarterly reports as required by probation condition number 3. The first report was due July 10, 2012.

9. Respondent has not submitted a proposed community service program or anger management course as required by probation condition number 20.

10. Respondent failed to obtain a certification from the Pharmacy Technician Certification Board as required by probation condition number 1.

11. Respondent allowed his license to expire on June 13, 2013, thereby not maintaining an active license as required by probation condition number 9. By letter dated May 2, 2013, the Board reminded Respondent of his obligation and provided a renewal application.

12. Respondent did not provide any satisfactory explanations for his failure to comply with the terms and conditions of probation. He testified that he called FirstLab for the "first couple of weeks to one month," but stated that certain obligations, such as picking up his son, prevented him from complying with the random drug testing requirements. He did not complete the community service because he had completed more than 80 hours in connection with his criminal cases. He did not submit quarterly reports because he did not work at a pharmacy for 16 hours per week, which employment is difficult in light of his probation. Similarly, he did not seek certification or renew his license because he has been unable to get a pharmacy technician job.

13. Respondent worked in the records department of Charter Hospital in Long Beach, California for three years until September 2012. Suzanne Ha, R.N., wrote a letter on his behalf in which she describes him as ethical, punctual, meticulous, detail-oriented and team-player. He is presently unemployed.

LEGAL CONCLUSIONS

1. Cause exists to impose the stayed revocation of Respondent's license because Respondent failed to comply with terms and conditions of probation, as set forth in factual finding numbers 3 through 12.

2. All evidence presented at the hearing has been considered. Respondent's violations are numerous. Essentially, he made no attempt to comply with the terms and conditions of probation, and failed to provide a valid explanation for his failure to do so. In the existing circumstances, the order that follows is required for the protection of the public.

ORDER

Pharmacy Technician License Number TCH 56286 issued to Eber Isai Sanchez is revoked.

DATED: 12/20/13



SAMUEL D. REYES

Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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Attorneys for Complainant
7

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

10 In the Matter of the Petition to Revoke Probation
11 Against:

Case No. 4535

12 **EBER ISAI SANCHEZ**
13 **6501 Fallon Ave**
Long Beach, CA 90805
14 **Pharmacy Technician License No. TCH 56286**

PETITION TO REVOKE PROBATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
19 official capacity as Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about April 18, 2005, the Board of Pharmacy issued Original Pharmacy
21 Technician License Number TCH 56286 to Eber Isai Sanchez (Respondent). The license was in
22 effect at all times relevant to the charges brought herein and will expire on June 30, 2013, unless
23 renewed.

24 3. In a disciplinary action entitled "In the Matter of the Accusation Against Eber Isai
25 Sanchez," Case No. 3505, the Board of Pharmacy issued a Stipulated Settlement and Disciplinary
26 Order, effective April 23, 2012, revoking Respondent's pharmacy technician license. Revocation
27 was stayed and Respondent was placed on probation for a period of three years with certain terms
28

1 and conditions. A copy of that Stipulated Settlement and Disciplinary Order is attached as
2 Exhibit A and is incorporated by reference.

3 **JURISDICTION**

4 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 5. At all times after the effective date of the Stipulated Settlement and Disciplinary
8 Order imposing probation on Respondent's license, Term and Condition 13 of that Order stated,
9 in pertinent part:

10 "If respondent violates probation in any respect, the board, after giving respondent
11 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order
12 that was stayed."

13 6. Section 4011 of the Code provides that the Board shall administer and enforce both
14 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
15 Act [Health & Safety Code, § 11000 et seq.].

16 7. Section 4300(a) of the Code provides that every license issued by the Board may be
17 suspended or revoked.

18 8. Section 4300(d) of the Code states:

19 "The board may initiate disciplinary proceedings to revoke or suspend any probationary
20 certificate of licensure for any violation of the terms and conditions of probation. Upon
21 satisfactory completion of probation, the board shall convert the probationary certificate to a
22 regular certificate, free of conditions."

23 **FIRST CAUSE TO REVOKE PROBATION**

24 **(Failure to Report Quarterly to the Board)**

25 7. At all times after the effective date of the Stipulated Settlement and Disciplinary
26 Order imposing probation on Respondent's license, Condition 3 of that probation stated:

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1 **Report to the Board.** Respondent shall report to the Board quarterly, on a schedule
2 as directed by the board or its designee. The report shall be made either in person or
3 in writing, as directed. Among other requirements, respondent shall state in each
4 report under penalty of perjury whether there has been compliance with all terms
5 and conditions of probation. Failure to submit timely reports in a form as directed
6 shall be considered a violation of probation.

7 8. Respondent's probation is subject to revocation because he failed to comply with
8 Condition 3 of that probation, listed above. To date, no reports have been received by the Board.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 **(Failure to Submit Cost Recovery Payments)**

11 9. At all times after the effective date of the Stipulated Settlement and Disciplinary
12 Order imposing probation on Respondent's license, Condition 7 of that probation stated:

13 **Reimbursement of Board Costs.** As a condition precedent to successful
14 completion of probation, respondent shall pay to the Board its costs of investigation
15 and prosecution in the amount of \$2000.00 (two thousand dollars and no cents).
16 Respondent shall make said payments on a payment plan approved by the board.
17 There shall be no deviation from any payment schedule absent prior written
18 approval by the board or its designee. Failure to pay such costs by the deadline(s) as
19 directed shall be considered a violation of probation.

20 10. Respondent's probation is subject to revocation because he failed to comply with
21 Condition 7 of that probation, listed above. To date, no payments have been received by the
22 Board.

23 **THIRD CAUSE TO REVOKE PROBATION**

24 **(Failure to Participate in Random Drug Screening)**

25 11. At all times after the effective date of the Stipulated Settlement and Disciplinary
26 Order imposing probation on Respondent's license, Condition 17 of that probation stated:

27 **Random Drug Screening.** Respondent, at his own expense, shall participate in random
28 testing, including but not limited to biological fluid testing (urine, blood), breathalyzer,
hair follicle testing, or other drug screening program as directed by the board or its
designee. Respondent may be required to participate in testing for the entire probation
period and the frequency of testing will be determined by the board or its designee. At
all times Respondent shall fully cooperate with the Board, and shall, when directed,
submit to such tests and samples for the detection of alcohol, narcotics, hypnotics,
dangerous drugs or other controlled substances as the board or its designee may direct.
Failure to timely submit to testing as directed shall be considered a violation of
probation.

1 14. Respondent's probation is subject to revocation because he failed to comply with
2 Condition 17 of that probation, listed above. Respondent failed to participate in the random drug
3 screening program as required.

4 **FOURTH CAUSE TO REVOKE PROBATION**

5 **(Failure to Establish a Community Service Program or Anger Management Course)**

6 15. At all times after the effective date of the Stipulated Settlement and Disciplinary
7 Order imposing probation on Respondent's license, Condition 20 of that probation stated:

8 **Community Services Program.** Respondent must complete fifty (50) hours of
9 community service each year of probation for the first two (2) years of probation or
10 complete a board-approved anger management course. Within sixty (60) days of the
11 effective date of this Stipulated Settlement and Disciplinary Order, respondent shall
12 submit to the board, for prior approval, a community service program in which
13 respondent shall provide free health-care related services on a regular basis to a
14 community or charitable facility or agency for at least fifty (50) hours per year for the
15 first two (2) years of probation or information regarding an anger management course
16 in which respondent proposes enrollment. Within thirty (30) days of board approval
17 thereof, respondent shall submit documentation to the board demonstrating
18 commencement of the community service program or anger management course. A
19 record of this notification must be provided to the board upon request. Respondent
20 shall report on progress with the community service program or anger management
21 course in quarterly reports. Failure to timely submit, commence, or comply with the
22 program shall be considered a violation of probation.

23 16. Respondent's probation is subject to revocation because he failed to comply with
24 Condition 20 of that probation, listed above. Respondent has not submitted the name of a
25 community service program or anger management course for approval by the Board as required
26 prior to commencing community service or attending the course.

27 **PRAYER**

28 **WHEREFORE,** Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing, the Board of Pharmacy issue a Stipulated Settlement and
Disciplinary Order:

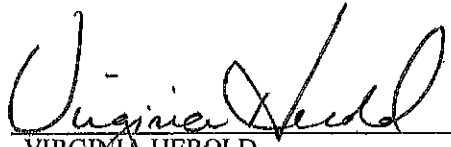
1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3505
and imposing the disciplinary order that was stayed, thereby revoking pharmacy technician
License No. TCH 56286, issued to Eber Isai Sanchez; and

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2. Taking such other and further action as is deemed necessary and proper.

DATED: 4/10/13



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

LA2013508629
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Exhibit A

**Stipulated Settlement and Disciplinary Order and Order
Board of Pharmacy Case No. 3505**

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

In the Matter of the Accusation Against:

EBER ISAI SANCHEZ
6510 Falcon Avenue
Long Beach, CA 90805

Pharmacy Technician License No. TCH 56286

Respondent.

Case No. 3505

OAH No. L-2011031311

DECISION AND ORDER

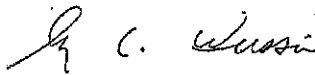
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 23, 2012.

It is so ORDERED on March 23, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3505

11 **EBER ISAI SANCHEZ**
12 **6510 Falcon Avenue**
13 **Long Beach, CA 90805**
14 **Pharmacy Technician License No. TCH**
15 **56286**

OAH No. L-2011031311
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

Respondent.

16
17
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 Kamala
23 D. Harris, Attorney General of the State of California, by Kimberley J. Baker-Guillemet, Deputy
24 Attorney General.

25 2. Respondent Eber Isai Sanchez (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.
27
28

1 3. On or about April 18, 2005, the Board of Pharmacy issued Pharmacy Technician
2 License No. TCH 56286 to Eber Isai Sanchez (Respondent). The Pharmacy Technician License
3 was in full force and effect at all times relevant to the charges brought in Accusation No. 3505
4 and will expire on June 30, 2013, unless renewed.

5 JURISDICTION

6 4. Accusation No. 3505 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 October 25, 2010.
9 Respondent timely filed his Notice of Defense contesting the Accusation.

10 A copy of Accusation No. 3505 is attached as exhibit A and incorporated herein by
11 reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 3505. Respondent has also carefully read, and understands the effects of this
15 Stipulated Settlement and Disciplinary Order.

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

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

25 CULPABILITY

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 3505.

28

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 56286 issued to
3 Respondent Eber Isai Sanchez (Respondent) is revoked. However, the revocation is stayed and
4 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 he 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 he 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

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

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

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

3. Report to the Board

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

4. Interview with the Board

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

5. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his

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 number 3505 and the terms, conditions and restrictions imposed
5 on 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 his 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 number 3505 and the terms and conditions
11 imposed thereby. It shall be respondent's responsibility to ensure that his 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,
14 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
15 of the terms and conditions of the decision in case number 3505 in advance of the respondent
16 commencing work at each pharmacy. A record of this notification must be provided to the board
17 upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of respondent undertaking any new employment by or through a pharmacy employment
20 service, respondent shall cause his direct supervisor with the pharmacy employment service to
21 report to the board in writing acknowledging that he has read the decision in case number 3505
22 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
23 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

27 "Employment" within the meaning of this provision shall include any full-time,
28 part-time, temporary or relief service or pharmacy management service as a pharmacy

1 technician or in any position for which a pharmacy technician license is a requirement
2 or criterion for employment, whether the respondent is considered an employee,
3 independent contractor or volunteer.

4 **7. Reimbursement of Board Costs**

5 As a condition precedent to successful completion of probation, respondent shall pay to the
6 board its costs of investigation and prosecution in the amount of \$2,000.00 (two thousand dollars
7 and no cents). Respondent shall make said payments on a payment plan approved by the board.
8 There shall be no deviation from this schedule absent prior written approval by the board or its
9 designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
10 probation.

11 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
12 reimburse the board its costs of investigation and prosecution.

13 **8. Probation Monitoring Costs**

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

18 **9. Status of License**

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

22 If respondent's pharmacy technician license expires or is cancelled by operation of law or
23 otherwise at any time during the period of probation, including any extensions thereof due to
24 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
25 terms and conditions of this probation not previously satisfied.

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

27 Following the effective date of this decision, should respondent cease work due to
28 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,

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

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

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

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

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

22 **12. Tolling of Probation**

23 Except during periods of suspension, respondent shall, at all times while on probation, be
24 employed as a pharmacy technician in California for a minimum of ten (10) hours per calendar
25 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
26 the period of probation shall be extended by one month for each month during which this
27 minimum is not met. During any such period of tolling of probation, respondent must
28 nonetheless comply with all terms and conditions of probation.

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

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

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

15 **13. Violation of Probation**

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

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

28 ///

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

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

21 If the Board receives a confirmed positive drug or alcohol test, respondent shall begin
22 regular attendance at a recognized and established substance abuse recovery support group in
23 California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved
24 by the board or its designee. Respondent must attend at least one group meeting per week unless
25 otherwise directed by the board or its designee. Respondent shall continue regular attendance and
26 submit signed and dated documentation confirming attendance with each quarterly report for the
27 duration of probation. Failure to attend or submit documentation thereof shall be considered a
28 violation of probation.

1 **17. Random Drug Screening**

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

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

26 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
27 Subject to the above restrictions, respondent may continue to own or hold an interest in any
28 licensed premises in which he holds an interest at the time this decision becomes effective unless

1 otherwise specified in this order.

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

3 **18. Notification of Departure**

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

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

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

20 **20. Completion of Community Service Program or Anger Management Course**

21 Respondent must complete fifty (50) hours of community service each year of probation for
22 the first two (2) years of probation or complete a board-approved anger management course.
23 Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its
24 designee, for prior approval, a community service program in which respondent shall provide free health-
25 care related services on a regular basis to a community or charitable facility or agency for at least fifty
26 (50) hours per year for the first two (2) years of probation or information regarding an anger management
27 course in which respondent proposes enrollement. Within thirty (30) days of board approval thereof,
28 respondent shall submit documentation to the board demonstrating commencement of the community

1 service program or of the anger management course. A record of this notification must be provided to the
2 board upon request. Respondent shall report on progress with the community service program or the anger
3 management course in the quarterly reports. Failure to timely submit, commence, or comply with the
4 program shall be considered a violation of probation.

5 ACCEPTANCE

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

10

11 DATED: 10-06-11


EBER ISAI SANCHEZ
Respondent

12

13

14

ENDORSEMENT

15

16

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

17

18

Dated: 10/6/11


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

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KIMBERLEY J. BAKER-GUILLEMET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3505

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6 Facsimile: (213) 897-2804

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:

Case No. 3505

12 **EBER ISAI SANCHEZ**
6510 Fallon Avenue
13 Long Beach, CA 90805

ACCUSATION

14 Pharmacy Technician Registration No. TCH 56286

15 Respondent.

16

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 April 18, 2005, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 56286 (the registration) to Eber Isai Sanchez (Respondent).

24

The registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on June 30, 2011, unless renewed.

26

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 STATUTORY PROVISIONS

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

9 5. Section 4300 permits the Board to take disciplinary action to suspend or revoke a
10 license issued by the Board.

11 6. Section 4301 states:

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

15

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

19

20 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
21 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
22 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
23 to the extent that the use impairs the ability of the person to conduct with safety to the public the
24 practice authorized by the license.

25

26 "(l) The conviction of a crime substantially related to the qualifications, functions, and
27 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
28 (commencing with Section 801) of Title 21 of the United States Code regulating controlled

1 substances or of a violation of the statutes of this state regulating controlled substances or
2 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
3 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
4 The board may inquire into the circumstances surrounding the commission of the crime, in order
5 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
6 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
7 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
8 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
9 of this provision. The board may take action when the time for appeal has elapsed, or the
10 judgment of conviction has been affirmed on appeal or when an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
12 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
13 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
14 indictment.

15 REGULATORY PROVISIONS

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

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

23 COST RECOVERY

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

28 ///

1 Ct. Los Angeles County, 2007, No. 7BF05590). Respondent was sentenced to 30 days in jail, and
2 placed on three years probation. The underlying circumstances revolve around Respondent's
3 attempt to "return" \$327.32 of electronic merchandise, which he had never really purchased, at
4 the Target Department Store in Lakewood, California. Due to a mismatched stock number, the
5 refund was unauthorized. Respondent then left the store with the merchandise he had attempted
6 to return, even though video surveillance footage revealed that Respondent had entered the store
7 empty-handed. Investigation followed, involving Target security and officers of the Long Beach
8 Police Department. On or about October 16, 2007, admitted his actions to the police, and was
9 formally charged soon after, on or about October 25, 2007.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 10. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
13 that Respondent used alcohol in a manner dangerous to himself and others. Complainant refers to
14 and incorporates all the allegations contained in paragraph 9, subparagraph b, as though set forth
15 fully.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Dishonest Acts)**

18 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
19 that he has committed dishonest, fraudulent acts. Complainant refers to and incorporates all the
20 allegations contained in paragraph 9, subparagraph c, as though set forth fully.

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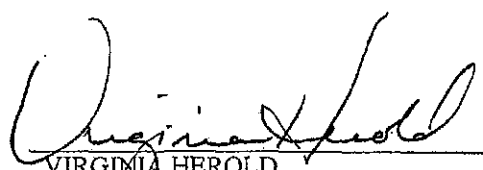
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician Registration No. TCH 56286, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/15/10



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