

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

In the Matter of the Accusation Against:

Case No. 5180

**SERGIO HERIBERTO SAAVEDRA
13100 S. Main St.
Los Angeles, CA 90061
Pharmacy Technician Registration No. TCH
110392**

Respondent.

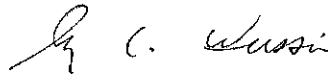
DECISION AND ORDER

The attached Stipulated Surrender of License and 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 March 4, 2015.

It is so ORDERED on February 25, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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Los Angeles, CA 90061
13 **Pharmacy Technician Registration No. TCH**
110392

STIPULATED SURRENDER OF
LICENSE AND ORDER

14 Respondent.
15

16
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 Linda L. Sun, Deputy Attorney General.

23 2. Sergio Heriberto Saavedra (Respondent) is representing himself in this proceeding
24 and has chosen not to exercise his right to be represented by counsel.

25 3. On or about March 11, 2011, the Board issued Pharmacy Technician Registration No.
26 TCH 110392 to Respondent. The Pharmacy Technician Registration was in full force and effect
27 at all times relevant to the charges brought in Accusation No. 5180 and had expired on September
28 30, 2014.

1 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
2 Respondent's license history with the Board of Pharmacy.

3 2. Respondent shall lose all rights and privileges as a pharmacy technician in California
4 as of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a new application. Respondent must comply
9 with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the
10 time the petition is filed, and all of the charges and allegations contained in Accusation No. 5180
11 shall be deemed to be true, correct and admitted by Respondent when the Board determines
12 whether to grant or deny the application.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of nine hundred twelve dollars and fifty cents (\$912.50) prior to issuance of a new or
15 reinstated license.

16 6. If Respondent should ever apply or reapply for a new license or certification, or
17 petition for reinstatement of a license, by any other health care licensing agency in the State of
18 California, all of the charges and allegations contained in Accusation No. 5180 shall be deemed to
19 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
20 other proceeding seeking to deny or restrict licensure.

21 7. Respondent shall not apply for licensure or petition for reinstatement for three (3)
22 years from the effective date of the Board's Decision and Order.

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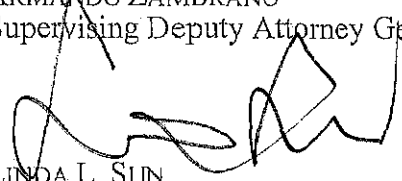
ACCEPTANCE

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

DATED: 1/20/15 _____ 
SERGIO HERIBERTO SAAVEDRA
Respondent

ENDORSEMENT

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

Dated: 1/20/15 _____
Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

LINDA L. SUN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5180

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7 *Attorneys for Complainant*

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

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12 **SERGIO HERIBERTO SAAVEDRA**
13 13100 S. Main St.
Los Angeles, CA 90061
14 Pharmacy Technician Registration
15 No. TCH 110392
16 Respondent.

Case No. 5180

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about March 11, 2011, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 110392 to Sergio Heriberto Saavedra (Respondent). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein and will expire on September 30, 2014, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise
28 indicated.

1 **STATUTORY PROVISIONS**

2 4. Section 490 states, in pertinent part:

3 "(a) In addition to any other action that a board is permitted to take against a licensee, a
4 board may suspend or revoke a license on the ground that the licensee has been convicted of a
5 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
6 or profession for which the license was issued."

7 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
8 discipline a licensee for conviction of a crime that is independent of the authority granted under
9 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
10 of the business or profession for which the licensee's license was issued."

11 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
12 conviction following a plea of nolo contendere. Any action that a board is permitted to take
13 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
14 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
15 made suspending the imposition of sentence, irrespective of a subsequent order under the
16 provisions of Section 1203.4 of the Penal Code."

17 5. Section 492 states, in pertinent part:

18 "Notwithstanding any other provision of law, successful completion of any diversion
19 program under the Penal Code, or successful completion of an alcohol and drug problem
20 assessment program under Article 5 (commencing with Section 23249.50) of Chapter
21 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
22 (commencing with Section 500) of this code, or any initiative act referred to in that division, from
23 taking disciplinary action against a licensee or from denying a license for professional
24 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
25 pertaining to an arrest."

26 6. Section 493 states:

27 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
28 the department pursuant to law to deny an application for a license or to suspend or revoke a

1 license or otherwise take disciplinary action against a person who holds a license, upon the
2 ground that the applicant or the licensee has been convicted of a crime substantially related to the
3 qualifications, functions, and duties of the licensee in question, the record of conviction of the
4 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
5 and the board may inquire into the circumstances surrounding the commission of the crime in
6 order to fix the degree of discipline or to determine if the conviction is substantially related to the
7 qualifications, functions, and duties of the licensee in question. As used in this section, "license"
8 includes "certificate," "permit," "authority," and "registration."

9 7. Section 4060 provides in pertinent part, that no person shall possess any controlled
10 substance, except that furnished to a person upon the prescription of a physician, dentist,
11 podiatrist, optometrist, veterinarian, or other authorized prescriber.

12 8. Section 4300 provides, in pertinent part, that every license issued by the Board is
13 subject to discipline, including suspension or revocation.

14 9. Section 4300.1 states:

15 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
16 operation of law or by order or decision of the board or a court of law, the placement of a license
17 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
18 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
19 proceeding against, the licensee or to render a decision suspending or revoking the license."

20 10. Section 4301 states:

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

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

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

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7 "(l) The conviction of a crime substantially related to the qualifications, functions, and
8 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
9 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
10 substances or of a violation of the statutes of this state regulating controlled substances or
11 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
12 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
13 The board may inquire into the circumstances surrounding the commission of the crime, in order
14 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
15 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
16 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
17 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
18 of this provision. The board may take action when the time for appeal has elapsed, or the
19 judgment of conviction has been affirmed on appeal or when an order granting probation is made
20 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
21 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
22 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
23 indictment."

24 **REGULATORY PROVISIONS**

25 11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **COST RECOVERY**

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

9 13. **CONTROLLED SUBSTANCE**

10 a. "Marijuana," is a Schedule I controlled substance as designated by Health and Safety
11 Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to
12 section 4022.

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

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Conviction of a Substantially Related Crime)**

18 14. Respondent is subject to disciplinary action under Code sections 4301, subdivision (I)
19 and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
20 Respondent has been convicted of a crime substantially related to the qualifications, functions or
21 duties of a pharmacy technician. On or about February 4, 2014, pursuant to a plea of *nolo*
22 *contendere*, Respondent was convicted of one misdemeanor count of violating Penal Code section
23 602, subdivision (k) [trespass: injure property] in the criminal proceeding entitled *The People of*
24 *the State of California v. Sergio Heriberto Saavedra* (Super. Ct. L.A. County, 2013, No.
25 3CA19635). The Court deferred pronouncement of sentence for 24 months pending
26 Respondent's completion of a drug diversion program. The circumstances surrounding the
27 conviction are that on or about October 18, 2013, an officer of the Sheriff's Department observed
28 Respondent on his skateboard failing to stop at a red light and a "don't walk" sign at a crosswalk.

1 While speaking to Respondent, the officer detected a strong odor of Marijuana emitting from his
2 person. During a search of Respondent's person, the officer noticed a bulge in Respondent's
3 pocket. When questioned, Respondent stated, "It's just a little weed and crystal." The officer
4 located two plastic baggies in Respondent's front right coin pocket. One bag contained
5 Marijuana and the other contained a white crystalline substance resembling Methamphetamine.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Use/Under the Influence of a Controlled Substance)**

8 15. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
9 in that on or about October 18, 2013, Respondent used and/or was under the influence of a
10 controlled substance to the extent or in a manner as to be dangerous or injurious to himself or to
11 the public. Complainant refers to, and by this reference incorporates, the allegations set forth
12 above in paragraph 14, as though set forth fully.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Obtained or Possessed a Controlled Substance)**

15 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
16 as defined in section 4060, in that on or about October 18, 2013, Respondent obtained or
17 possessed controlled substances in violation of Health and Safety Code sections 11357 and
18 11377. Complainant refers to, and by this reference incorporates, the allegations set forth above
19 in paragraph 14, as though set forth fully.

20 **PRAYER**

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

23 1. Revoking or suspending Pharmacy Technician Registration No. TCH 110392, issued
24 to Sergio Heriberto Saavedra;

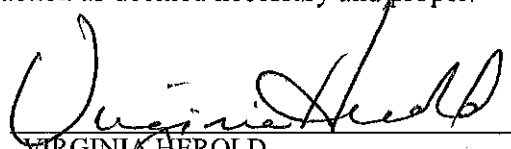
25 2. Ordering Sergio Heriberto Saavedra to pay the Board of Pharmacy the reasonable
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions
27 Code section 125.3; and

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3. Taking such other and further action as deemed necessary and proper.

DATED: 12/14/14



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

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