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

In the Matter of the Accusation Against:

**ORLANDO RENDON**  
**10881 Blake Street**  
**Garden Grove, CA 92843**

**Pharmacy Technician Registration No. TCH  
139996**

Respondent.

Case No. 5580

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 20, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5580 against Orlando Rendon (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about April 24, 2014, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 139996 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5580 and will expire on March 31, 2016, unless renewed.

1           3.     On or about October 28, 2015, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5580, Statement to Respondent, Notice of Defense, Request  
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
6 record was and is:

7     10881 Blake Street  
8     Garden Grove, CA 92843.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5.     Government Code section 11506 states, in pertinent part:

13                   (c) The respondent shall be entitled to a hearing on the merits if the respondent  
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15 of the accusation not expressly admitted. Failure to file a notice of defense shall  
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
17 may nevertheless grant a hearing.

18           6.     Respondent failed to file a Notice of Defense within 15 days after service upon him  
19 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
20 5580.

21           7.     California Government Code section 11520 states, in pertinent part:

22                   (a) If the respondent either fails to file a notice of defense or to appear at the  
23 hearing, the agency may take action based upon the respondent's express admissions  
24 or upon other evidence and affidavits may be used as evidence without any notice to  
25 respondent.

26           8.     Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 5580, finds that

1 the charges and allegations in Accusation No. 5580, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$1,562.50 as of November 27, 2015.

#### 6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Orlando Rendon has subjected  
8 his Pharmacy Technician Registration No. TCH 139996 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
11 Registration based upon the following violations alleged in the Accusation which are supported  
12 by the evidence contained in the Default Decision Evidence Packet in this case:

13 a. Code sections 490 and 4301, subdivision (j), in that Respondent violated Health and  
14 Safety Code (HSC) sections 11350, subdivision (a) and 11375, subdivision (b)(2), statutes of the  
15 State of California regulating controlled substances.

16 b. Code sections 490 and 4301, subdivision (l), in that he was convicted of crimes  
17 that are substantially related to the qualifications, functions, and duties of a registered pharmacy  
18 technician. On January 23, 2015, in a criminal proceeding entitled *People v. Rendon*, in Orange  
19 County Superior Court, Case Number 14WM11612, Respondent was convicted on his plea of  
20 guilty of violating Vehicle Code (VC) section 23152, subdivisions (a), driving while under the  
21 influence of alcohol (DUI), and (b), driving with a blood alcohol concentration (BAC) of 0.08  
22 percent or more, both misdemeanors.

23 c. Code section 4301, subdivision (h) in that on November 28, 2014, Respondent used  
24 alcohol to the extent and in a manner that was dangerous and injurious to himself and to the  
25 public.

26 d. Code section 4301, subdivision (k) in that on January 23, 2015, Respondent was  
27 convicted of more than one misdemeanor involving the use or consumption of alcohol.

1 e. Code section 4301, subdivision (p), in that Respondent was convicted of two  
2 misdemeanors and committed one felony and two misdemeanor violations of drug laws, conduct  
3 that would have warranted the denial of a pharmacy technician registration under Code section  
4 480, subdivision (a)(1).

5 ORDER

6 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 139996, heretofore  
7 issued to Respondent Orlando Rendon, is revoked.

8 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
9 written motion requesting that the Decision be vacated and stating the grounds relied on within  
10 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
11 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

12 This Decision shall become effective on February 8, 2016.

13 It is so ORDERED January 8, 2016.

14 BOARD OF PHARMACY  
15 DEPARTMENT OF CONSUMER AFFAIRS  
16 STATE OF CALIFORNIA

17 

18  
19 By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

20  
21  
22 81198579.DOC  
DOJ Matter ID:SD2015802080

23 Attachment:  
24 Exhibit A: Accusation

# Exhibit A

Accusation

(ORLANDO RENDON)

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2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
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*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5580

13 **ORLANDO RENDON**  
10881 Blake Street  
14 Garden Grove, CA 92843

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH 139996**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On April 24, 2014, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 139996 to Orlando Rendon (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 March 31, 2016, unless renewed.

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1 **JURISDICTION**

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 (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a), of the Code provides that every license issued by  
6 the Board may be suspended or revoked.

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued  
9 license by operation of law or by order or decision of the board or a court of law,  
10 the placement of a license on a retired status, or the voluntary surrender of a  
11 license by a licensee shall not deprive the board of jurisdiction to commence or  
12 proceed with any investigation of, or action or disciplinary proceeding against, the  
13 licensee or to render a decision suspending or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to  
15 evaluate the rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
- 17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation  
19 furnished by the applicant or licensee.

20 7. Section 492 of the Code states:

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

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1           8.       Section 4022 of the Code states

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

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

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

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

12           9.       Section 4060 of the Code states:

13                   No person shall possess any controlled substance, except that furnished to  
14 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
17 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
18 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
19 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not  
20 apply to the possession of any controlled substance by a manufacturer,  
21 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
22 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or  
23 physician assistant, when in stock in containers correctly labeled with the name  
24 and address of the supplier or producer.

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

28           10.     Section 4301 of the Code states:

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

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

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

3 (k) The conviction of more than one misdemeanor or any felony involving  
4 the use, consumption, or self-administration of any dangerous drug or alcoholic  
5 beverage, or any combination of those substances.

6 . . . .

7 (p) Actions or conduct that would have warranted denial of a license.

8 . . . .

9 11. Health & Safety Code section 11055, subdivision (b) in pertinent part states:

10 Any of the following substances, except those narcotic drugs listed in  
11 other schedules, whether produced directly or indirectly by extraction from  
12 substances of vegetable origin, or independently by means of chemical synthesis,  
13 or by combination of extraction and chemical synthesis

14 (1) Opium, opiate, and any salt, compound, derivative, or  
15 preparation of opium or opiate, with the exception of naloxone hydrochloride (N-  
16 allyl-14-hydroxy-nordihydromorphinone hydrochloride), but including the  
17 following

18 . . . .

19 (l) Hydrocodone.

20 . . . .

21 12. Health & Safety Code section 11350, subdivision (a) states:

22 Except as otherwise provided in this division, every person who possesses  
23 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of  
24 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of  
25 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section  
26 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled  
27 substance classified in Schedule III, IV, or V which is a narcotic drug, unless  
28 upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
licensed to practice in this state, shall be punished by imprisonment pursuant to  
subdivision (h) of Section 1170 of the Penal Code.

13. Health & Safety Code section 11375 in pertinent part states:

. . . .

(b) (2) Every person who possesses any controlled substance specified  
in subdivision (c), unless upon the prescription of a physician, dentist, podiatrist,  
or veterinarian, licensed to practice in this state, shall be guilty of an infraction or  
a misdemeanor.

(c) This section shall apply to any material, compound, mixture, or  
preparation containing any of the following substances:

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....  
(4) Diazepam.

....  
(12) Alprazolam.

**REGULATORY PROVISIONS**

14. California Code of Regulations, title 16, section 1769, states:

....  
(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

**COST RECOVERY**

16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not

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1 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
2 may be included in a stipulated settlement.

### 3 DRUGS AT ISSUE

4 17. Alprazolam is a Schedule IV controlled substance as designated by Health and  
5 Safety Code section 11057, subdivision (d)(1) and is a dangerous drug under section 4022.

6 18. Diazepam is a Schedule IV controlled substance as designated by Health and  
7 Safety Code, section 11057, subdivision (d)(9) and is a dangerous drug under Code section 4022.

8 19. Hydrocodone is a Schedule II controlled substance as designated by Health and  
9 Safety Code section 11055, subdivision (b)(1)(I), and is a dangerous drug under Code section  
10 4022.

### 11 FIRST CAUSE FOR DISCIPLINE

#### 12 (Unprofessional Conduct – Violation of Drug Laws)

13 20. Respondent has subjected his Pharmacy Technician Registration to discipline  
14 under Code sections 490 and 4301, subdivision (j), in that he violated Health and Safety Code  
15 (HSC) sections 11350, subdivision (a) and 11375, subdivision (b)(2), statutes of the State of  
16 California regulating controlled substances. The circumstances are as follows:

17 a. On June 16, 2014, Respondent was found in possession of two  
18 hydrocodone pills, nine diazepam pills, and nine alprazolam pills at a parking lot in Garden  
19 Grove, California. Respondent was subsequently transported to the Orange County Jail on  
20 charges of violation of HSC section 11350, subdivision (a), and Code section 4060, possession  
21 of a controlled substance, without prescription of a physician.

22 b. Due to Respondent's admission of owning the 20 pills of controlled  
23 substances, a criminal action was filed against him. On January 23, 2015, in a criminal  
24 proceeding entitled *The People of the State of California vs. Orlando Rendon*, in Orange County  
25 Superior Court, West Justice Center, Case Number 14WF2905, Respondent pled guilty to  
26 violating HSC section 11350, subdivision (a), possession of hydrocodone without prescription, a  
27 felony, and two counts of violation of HSC section 11375, subdivision (b)(2), possession of  
28 alprazolam and diazepam, misdemeanors.

1 c. As a result of his guilty plea, on January 23, 2015, Respondent was  
2 granted deferred entry of judgment under Penal Code (PC), section 1000. Respondent was  
3 required to pay fees, provide proof of enrollment in an 18-month drug diversion program by  
4 February 23, 2015, and provide proof of successful completion of the PC section 1000 program  
5 by July 23, 2018. Respondent was also required to return to court for sentencing on July 25,  
6 2016, and with successful completion of the PC section 1000 program, deferred entry of  
7 judgment dismissal.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Jan. 23, 2015 Conviction for Driving with a BAC .08 Percent or More on Nov. 28, 2014)**

10 21. Respondent has subjected his Pharmacy Technician Registration to discipline  
11 under Code sections 490 and 4301, subdivision (I), in that he was convicted of crimes that are  
12 substantially related to the qualifications, functions, and duties of a registered pharmacy  
13 technician. The circumstances are as follows:

14 a. On January 23, 2015, in a criminal proceeding entitled *The People of the*  
15 *State of California v. Orlando Rendon*, in Orange County Superior Court, West Justice Center,  
16 Criminal Division Case Number 14WM11612, Respondent was convicted on his plea of guilty  
17 of violating Vehicle Code (VC) section 23152, subdivisions (a), driving while under the  
18 influence of alcohol (DUI), and (b), driving with a blood alcohol concentration (BAC) of 0.08  
19 percent or more, both misdemeanors. A misdemeanor charge for violation of VC section 23103,  
20 subdivision (a), reckless driving, was dismissed under a plea bargain.

21 b. As a result of the convictions, on January 23, 2015, Respondent was  
22 sentenced to three years informal probation under standard alcohol conditions. Respondent was  
23 ordered to pay fines, fees, restitution, and assessments, and attend and satisfactorily complete a  
24 three-month first offender alcohol program and a Mothers Against Drunk Driving Victim's  
25 Impact Panel session.

26 c. The facts that led to the conviction are that on November 28, 2014,  
27 Respondent overtook a patrol vehicle while driving eastbound at a speed of about 100 miles per  
28 hour along state route SR-22, east of Brookhurst Street in Garden Grove, California. The

1 California Highway Patrol (CHP) officer driving the patrol vehicle followed Respondent at about  
2 120 miles per hour before initiating an enforcement stop. Respondent complied on the third  
3 request and exited the freeway at Fairview Drive. Upon contact with Respondent, the officer  
4 immediately smelled alcohol coming from inside Respondent's car. Respondent was told to exit  
5 his car and stand on a curb. While walking towards the curb, the officer noticed Respondent's  
6 unsteadiness on his feet. When asked for his driver's license, Respondent was slow and  
7 deliberate in his movements while retrieving his wallet. While answering the officer's questions,  
8 the smell of alcohol emitted from Respondent's breath; his speech was slow, sluggish, and  
9 slurred; and his eyes were red and glassy. Respondent admitted to drinking five shots of vodka  
10 earlier. Respondent failed to perform a series of field sobriety tests as explained and  
11 demonstrated. Respondent provided breath samples for the preliminary alcohol screen, which  
12 indicated a BAC of .117 percent and .111 percent after two minutes. Respondent was  
13 subsequently arrested and transported to the Orange County Jail, where he provided a blood  
14 sample, which tested a BAC of .10 percent.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

17 22. Respondent has subjected his Pharmacy Technician Registration to discipline  
18 under Code section 4301, subdivision (h) in that on November 28, 2014, he used alcohol, as  
19 described in paragraph 21, above, which is incorporated by reference, to the extent and in a  
20 manner that was dangerous and injurious to himself and to the public.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Conviction of Alcohol Related Misdemeanors)**

23 23. Respondent has subjected his Pharmacy Technician Registration to discipline  
24 under Code section 4301, subdivision (k) in that on January 23, 2015, he was convicted of more  
25 than one misdemeanor involving the use or consumption of alcohol.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Conduct That Would Have Warranted Denial of a License)**

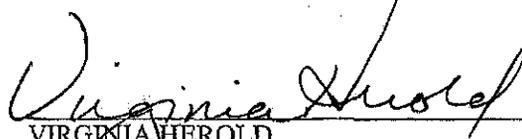
3 24. Respondent has subjected his Pharmacy Technician Registration to discipline  
4 under Code section 4301, subdivision (p), in that Respondent was convicted of two  
5 misdemeanors and committed one felony and two misdemeanor violations of drug laws, conduct  
6 that would have warranted the denial of a pharmacy technician registration under Code section  
7 480, subdivision (a)(1), as detailed in paragraphs 20 to 23, above.

8 **PRAYER**

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

- 11 1. Revoking or suspending Pharmacy Technician Registration Number TCH  
12 139996, issued to Orlando Rendon;
- 13 2. Ordering Orlando Rendon to pay the Board of Pharmacy the reasonable costs of  
14 the investigation and enforcement of this case, pursuant to Business and Professions Code  
15 section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.
- 17  
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19

20 DATED: 10/20/15



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

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