

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

In the Matter of the Accusation Against:

ALVARO SAUL CANO CHAVEZ
796 Cedar Avenue
Chula Vista, CA 91910

Pharmacy Technician Registration No. TCH 135702

Respondent.

Case No. 5705

OAH No. 2016110341

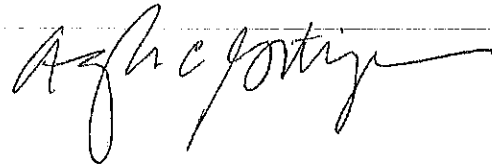
DECISION AND ORDER

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 at 5:00 p.m. on April 14, 2017.

It is so ORDERED on March 15, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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Attorney General of California
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8 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5705

12 **ALVARO SAUL CANO CHAVEZ**
13 **796 Cedar Ave**
14 **Chula Vista, CA 91910**

OAH No. 2016110341

15 **Pharmacy Technician Registration No. TCH**
135702

STIPULATED SURRENDER OF
LICENSE AND ORDER

16 Respondent.

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
20 the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will
21 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

22 PARTIES

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
24 (Board). She brought this action solely in her official capacity and is represented in this matter by
25 Xavier Becerra, Attorney General of the State of California, by Theodore S. Drcar, Deputy
26 Attorney General.

27 2. Alvaro Saul Cano Chavez (Respondent) is representing himself in this proceeding
28 and has chosen not to exercise his right to be represented by counsel.

1 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
2 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
3 executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following Order:

6 **ORDER**

7 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 135702,
8 issued to Respondent Alvaro Saul Cano Chavez, is surrendered and accepted by the Board of
9 Pharmacy.

10 1. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
11 as of the effective date of the Board's Decision and Order.

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

14 3. The surrender of Respondent's license and the acceptance of the surrendered license
15 by the Board shall constitute the imposition of discipline against Respondent. This Order
16 constitutes a record of discipline and shall become a part of Respondent's license history with the
17 Board.

18 4. Respondent understands and agrees that if he or she ever files an application for
19 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new
20 application for licensure. Respondent may not apply for any license, permit, or registration from
21 the Board for three (3) years from the effective date of this decision. Respondent stipulates that
22 should he or she apply for any license from the Board on or after the effective date of this
23 decision, all allegations set forth in the Accusation shall be deemed to be true, correct and
24 admitted by Respondent when the Board determines whether to grant or deny the application.
25 Respondent shall satisfy all requirements applicable to that license as of the date the application is
26 submitted to the Board, including, but not limited to certification by a nationally recognized body
27 prior to the issuance of a new license. Respondent is required to report this surrender as
28 disciplinary action.

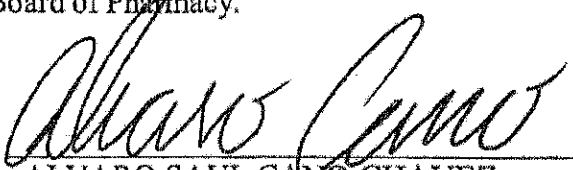
1 should he or she apply for any license from the Board on or after the effective date of this
2 decision, all allegations set forth in the Accusation shall be deemed to be true, correct and
3 admitted by Respondent when the Board determines whether to grant or deny the application.
4 Respondent shall satisfy all requirements applicable to that license as of the date the application is
5 submitted to the Board, including, but not limited to certification by a nationally recognized body
6 prior to the issuance of a new license. Respondent is required to report this surrender as
7 disciplinary action.

8 5. Respondent pay the agency its costs of investigation and prosecution in the amount of
9 \$6,100.25 prior to issuance of a new or reinstated license.

10 ACCEPTANCE

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

15
16 DATED: 2/03/17


17 ALVARO SAUL CANO CHAVEZ
18 Respondent

19 ENDORSEMENT

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

2 Dated:

Respectfully submitted,

3 XAVIER BECERRA
4 Attorney General of California
5 ANTOINETTE B. CINCOTTA
6 Supervising Deputy Attorney General

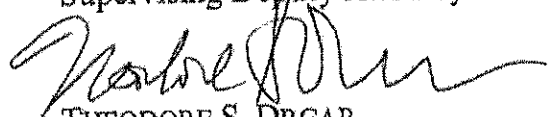

7 THEODORE S. DR CAR
8 Deputy Attorney General
9 Attorneys for Complainant

Exhibit A

Accusation No. 5705

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 State Bar No. 164015
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
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:
13 **ALVARO SAUL CANO CHAVEZ**
796 Cedar Ave
14 Chula Vista, CA 91910
15 Pharmacy Technician Registration No.
TCH 135702
16 Respondent.

Case No. 5705
A C C U S A T I O N

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
23 2. On or about November 12, 2013, the Board issued Pharmacy Technician Registration
24 Number TCH 135702 to Alvaro Saul Cano Chavez (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and will
26 expire on January 31, 2017, unless renewed.

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JURISDICTION

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

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

5. Section 4300 of the Code states, (a) Every license issued may be suspended or revoked.

6. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

7. Section 4022 of the Code states

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

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

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

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

8. Section 4059 of the Code states:

(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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9. Section 4060 of the Code states:

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

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

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:

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

...
(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

11. Health & Safety Code section 11170 states:

No person shall prescribe, administer, or furnish a controlled substance for himself.

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12. Health & Safety Code section 11350 states:

Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless 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. 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.

14. United States Code, title 21, section 843 states, in pertinent part:

(a) It shall be unlawful for any person knowingly or intentionally –

....

(3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge;

COSTS

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

FACTUAL ALLEGATIONS

16. At all times mentioned herein, Respondent was employed as a pharmacy technician in Chula Vista, California.

1 17. Between November 12, 2013 and September 9, 2015, Respondent admitted to
2 Board staff that he had been smoking marijuana for his personal use to deal with personal issues.
3 Respondent does not have a prescription for possessing marijuana.

4 **DRUG**

5 18. Marijuana is a Schedule I controlled substance as designated by Health and Safety
6 Code section 11054(d)(13), and is a dangerous drug pursuant to Business & Professions Code
7 section 4022.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Violations of Drug Laws)**

10 19. Respondent has subjected his Pharmacy Technician Registration to discipline under
11 Code section 4301, subdivision (j), for violating statutes regulating controlled substances and
12 dangerous drugs, including Health and Safety Code sections 11170 and 11350, subdivision (a), in
13 that he possessed a controlled substance without a prescription, as set forth in paragraphs 16
14 through 18, above; which are incorporated herein by reference.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Possession of Controlled Substance without a Prescription)**

17 20. Respondent has subjected his Pharmacy Technician Registration to discipline under
18 Code section 4301, subdivision (o) for violating Pharmacy Law, in that Respondent possessed a
19 controlled substance without a prescription in violation of Code section 4060, as set forth in
20 paragraphs 16 through 18, above, which are incorporated herein by reference.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Possession of a Dangerous Controlled Substance without a Prescription)**

23 21. Respondent has subjected his Pharmacy Technician Registration to discipline under
24 Code section 4022 and 4059, subdivision (a), in that Respondent possessed a dangerous drug
25 and/or controlled substance without a prescription, as set forth in paragraphs 16 through 18,
26 above, which are incorporated herein by reference.

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 22. Respondent is subject to disciplinary action under Code section 4301 for
4 unprofessional conduct in that he engaged in the activities described in paragraphs 16 through
5 18, above, which are incorporated herein by reference.

6 **PRAYER**

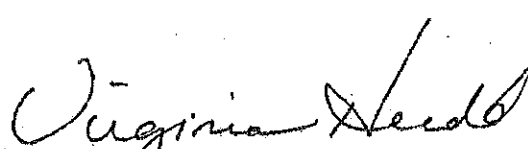
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Pharmacy issue a decision:

9 1. Revoking or suspending Pharmacy Technician Registration Number TCH 135702,
10 issued to Alvaro Saul Cano Chavez;

11 2. Ordering Alvaro Saul Cano Chavez to pay the Board of Pharmacy the reasonable
12 costs of the investigation and enforcement of this case, pursuant to Business and Professions
13 Code section 125.3;

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

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18 DATED: 4/16/16


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

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23 Chavez.docx
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DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL

(Separate Mailings)

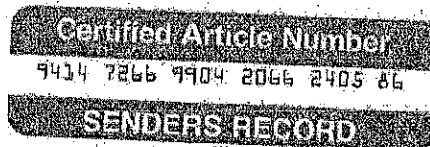
Case Name: **In the Matter of the Accusation Against Alvaro Saul Cano Chavez**
Case No.: **5705**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On April 28, 2016, I served the attached **STATEMENT TO RESPONDENT; ACCUSATION; NOTICE OF DEFENSE (2 copies); REQUEST FOR DISCOVERY;** and **GOVERNMENT CODE SECTIONS 11507.5, 11507.6 and 11507.7** by placing a true copy thereof enclosed in a sealed envelope as certified mail with return receipt requested, and another true copy of the **STATEMENT TO RESPONDENT; ACCUSATION; NOTICE OF DEFENSE (2 copies); REQUEST FOR DISCOVERY;** and **GOVERNMENT CODE SECTIONS 11507.5, 11507.6 and 11507.7** was enclosed in a second sealed envelope as first class mail in the internal mail collection system at the Office of the Attorney General at 600 West Broadway, Suite 1800, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Alvaro Saul Cano Chavez
796 Cedar Ave
Chula Vista, CA 91910



I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on April 28, 2016, at San Diego, California.

Maria G. Stawarz
Declarant

Maria G. Stawarz
Signature

cc: Board of Pharmacy (via e-mail)
SD2015803346
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