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

12 In the Matter of the Accusation Against:

Case No. 6805

13 **SERGIO ALVERTO PEREZ**  
14 **265 S. Lucas Avenue #9**  
**Los Angeles, CA 90026**

**DEFAULT DECISION AND ORDER**

15 **Pharmacy Technician Registration No. TCH**  
16 **171032**

[Gov. Code, §11520]

17 Respondent.  
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19  
20 **FINDINGS OF FACT**

21 1. On or about November 14, 2019, Complainant Anne Sodergren, in her official  
22 capacity as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer  
23 Affairs, filed Accusation No. 6805 against Sergio Alverto Perez (Respondent) before the Board  
24 of Pharmacy. (Accusation attached as Exhibit A.)

25 2. On or about January 25, 2019, the Board of Pharmacy (Board) issued Pharmacy  
26 Technician Registration No. TCH 171032 to Respondent. The Pharmacy Technician Registration  
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 6805  
28 and will expire on March 31, 2020, unless renewed.

1           3.     On or about December 3, 2019, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 6805, 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: 265 S. Lucas Avenue #9, Los Angeles, CA 90026.

7           4.     Service of the Accusation was effective as a matter of law under the provisions of  
8 Government Code section 11505(c) and/or Business and Professions Code section 124.

9           5.     Government Code section 11506(c) states, in pertinent part:

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

15           6.     The Board takes official notice of its records and the fact that Respondent failed to  
16 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore  
17 waived his right to a hearing on the merits of Accusation No. 6805.

18           7.     California Government Code section 11520(a) states, in pertinent part:

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

23           8.     Pursuant to its authority under Government Code section 11520, the Board finds  
24 Respondent is in default. The Board will take action without further hearing and, based on the  
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6805,  
28 finds that the charges and allegations in Accusation No. 6805, are separately and severally, found  
to be true and correct by clear and convincing evidence.

          9.     The Board finds that the actual costs for Investigation and Enforcement are \$8,419.50  
as of February 3, 2020.

**DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Sergio Alverto Perez has subjected his Pharmacy Technician Registration No. TCH 171032 to discipline.

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

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

a. Business and Professions Code section 4301, subdivision (f), on the grounds of unprofessional conduct for committing acts involving dishonesty, fraud, or deceit;

b. Business and Professions Code section 4301, subdivision (j), on the grounds of unprofessional conduct for violating statutes regulating controlled substances and dangerous drugs;

c. Business and Professions Code section 4301, subdivision (o), on the grounds of unprofessional conduct for violating provisions of the Pharmacy Act; and

d. Business and Professions Code section 4301, subdivisions (j) and/or (o), in conjunction with Health and Safety Code section 11173, subdivision (a)(1), on the grounds of unprofessional conduct for obtaining controlled substances by dishonesty, fraud, or deceit.

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**ORDER**

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 171032, issued to Respondent Sergio Alverto Perez, is revoked.

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

This Decision shall become effective on April 15, 2020 at 5:00 p.m.

It is so ORDERED on March 16, 2020.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



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DOJ Matter ID:LA2019503846

Greg Lippe  
Board President

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(SERGIO ALVERTO PEREZ)

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 MARISSA N. HAMILTON  
Deputy Attorney General  
4 State Bar No. 322489  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6701  
6 Facsimile: (916) 731-2126  
*Attorneys for Complainant*  
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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 6805

13 **SERGIO ALVERTO PEREZ**  
14 **265 S. Lucas Avenue #9**  
**Los Angeles, CA 90026**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
16 **171032**

Respondent.

17  
18  
19 **PARTIES**

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

22 2. On or about January 25, 2019, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 171032 to Sergio Alverto Perez (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on March 31, 2020, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
28 Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code (Code) unless otherwise indicated.

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

4 5. Section 4300.1 of the Code states:

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

### 11 STATUTORY PROVISIONS

12 6. Section 4077 of the Code states, in pertinent part, that except as provided in  
13 subdivisions (b) and (c) of this section, no person shall dispense any dangerous drug upon  
14 prescription except in a container correctly labeled with the information required by Section  
15 4076.

16 7. Section 4301 of the Code states:

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

20 . . . .

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

24 . . . .

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

27 . . . .

28 (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.

8. Health and Safety Code section 11173, subdivision (a)(1), states that no person shall  
obtain or attempt to obtain controlled substances, or procure or attempt to procure the

1 administration of or prescription for controlled substances by fraud, deceit, misrepresentation, or  
2 subterfuge.

### 3 REGULATORY PROVISIONS

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

5 For the purpose of denial, suspension, or revocation of a personal or facility  
6 license pursuant to Division 1.5 (commencing with Section 475) of the Business and  
7 Professions Code, a crime or act shall be considered substantially related to the  
8 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.

### 9 COST RECOVERY

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

### 14 CONTROLLED SUBSTANCE

15 11. Code section 4021 provides:

16 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section  
17 11053) of Division 10 of the Health and Safety Code.

18 12. Code Section 4022 states:

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

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

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

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

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13. Alprazolam is commonly known by the trade name “Xanax” and is part of the Benzodiazepine class. It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug pursuant to section 4022 of the Code.

14. Sertraline is commonly known by the trade name “Zoloft” and is a dangerous drug pursuant to Code section 4022. It is used as an antidepressant.

## SUMMARY OF FACTS

15. On or about March 29, 2019, Respondent was hired at Lorena Pharmacy as a pharmacy technician.

16. On or about May 3, 2019, Lorena Pharmacy initiated an investigation into missing alprazolam tablets.

17. On or about May 2, 2019, video surveillance of Lorena Pharmacy captured images of Respondent taking a controlled substance out of the bottle and placing the tablets into his pocket.

18. On or about May 3, 2019, Respondent admitted to taking alprazolam and sertraline tablets from Lorena Pharmacy on May 2, 2019 while employed as a Pharmacy Technician, placing them in his pocket, and taking the tablets home.

19. On or about May 6, 2019, Lorena Pharmacy contacted the Board about Respondent's admission to diverting controlled substances from Lorena Pharmacy.

20. Respondent's last date of employment at Lorena Pharmacy was on or about May 2, 2019.

**FIRST CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct – Acts Involving Dishonesty, Fraud, or Deceit)**

21. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), on the grounds of unprofessional conduct, in that on or about May 2, 2019, Respondent committed acts involving dishonesty, fraud, or deceit when he diverted controlled substances from Lorena Pharmacy while employed as a Pharmacy Technician. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 15 through 20 above.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Violations of Controlled Substance Statutes)**

3 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),  
4 on the grounds of unprofessional conduct, in that on or about May 2, 2019, Respondent violated  
5 statutes regulating controlled substances and dangerous drugs when he diverted controlled  
6 substances from Lorena Pharmacy while employed as a Pharmacy Technician. Complainant  
7 refers to, and by this reference incorporates, the allegations set forth in paragraphs 15 through 20  
8 above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Violations of Pharmacy Act Provisions)**

11 23. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),  
12 on the grounds of unprofessional conduct, in that on or about May 2, 2019, Respondent violated  
13 provisions of the Pharmacy Act when he diverted controlled substances from Lorena Pharmacy  
14 while employed as a Pharmacy Technician. Complainant refers to, and by this reference  
15 incorporates, the allegations set forth in paragraphs 15 through 20 above.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Obtaining Controlled Substances by Dishonesty, Fraud, or Deceit)**

18 24. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)  
19 and / or (o), in conjunction with Health and Safety Code section 11173, subdivision (a)(1), on the  
20 grounds of unprofessional conduct, in that on or about May 2, 2019, Respondent obtained  
21 controlled substances by dishonesty, fraud, or deceit when he diverted controlled substances from  
22 Lorena Pharmacy while employed as a Pharmacy Technician. Complainant refers to, and by this  
23 reference incorporates, the allegations set forth in paragraphs 15 through 20 above.

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**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 171032, issued to Sergio Alverto Perez;

2. Ordering Sergio Alverto Perez to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: November 14, 2019



ANNE SODERGREN  
Interim Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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