

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

**In the Matter of the Accusation Against:**

**RICHARD ANTHONY HERNANDEZ, Respondent**

**Pharmacy Technician Registration No. TCH 155639**

**Agency Case No. 7093**

**OAH No. 2021030605**

**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 at 5:00 p.m. on September 2, 2021.

It is so ORDERED on August 3, 2021.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" being the most prominent parts.

By

Seung W. Oh, Pharm.D.  
Board President

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Attorney General of California  
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7

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

12 In the Matter of the Accusation Against:  
13 **RICHARD ANTHONY HERNANDEZ**  
14 **19635 Times Ave**  
**Hayward, CA 94541**  
15 **Original Pharmacy Technician Registration**  
16 **No. TCH 155639,**  
17 Respondent.

Case No. 7093  
OAH No. 2021030605

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18  
19  
20 IT IS STIPULATED AND AGREED by and between the parties to these proceedings that  
21 the following matters are true:

22 **PARTIES**

23 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
24 (Board), Department of Consumer Affairs. She brought this action solely in her official capacity  
25 and is represented in this matter by Rob Bonta, Attorney General of the State of California, and  
26 by Gregory Tuss, Deputy Attorney General.

27 2. Richard Anthony Hernandez (Respondent) is represented in this proceeding by  
28 attorney Negin Yamini, whose address is 5670 Wilshire Boulevard, Suite 1837, Los Angeles,

1 California 90036.

2 3. On August 12, 2016, the Board issued Original Pharmacy Technician Registration  
3 No. TCH 155639 to Respondent. This pharmacy technician registration was in full force and  
4 effect at all times relevant to the charges brought in Accusation No. 7093 and will expire on  
5 December 31, 2021, unless renewed.

6 **JURISDICTION**

7 4. Accusation No. 7093 was filed before the Board and is currently pending against  
8 Respondent. The accusation and all other statutorily required documents were properly served on  
9 Respondent on February 22, 2021. Respondent timely filed his notice of defense contesting the  
10 accusation.

11 5. A copy of Accusation No. 7093 is attached as exhibit 1 and incorporated by  
12 reference.

13 **ADVISEMENT AND WAIVERS**

14 6. Respondent has carefully read, fully discussed with counsel, and understands the  
15 charges and allegations in Accusation No. 7093. Respondent has also carefully read, fully  
16 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
17 Order.

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

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

26 **CULPABILITY**

27 9. Respondent admits the truth of each and every charge and allegation in Accusation  
28 No. 7093.

10. Respondent agrees that his pharmacy technician registration is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that portable document format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of these admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

## DISCIPLINARY ORDER

IT IS ORDERED that Original Pharmacy Technician Registration No. TCH 155639 issued to Respondent Richard Anthony Hernandez is revoked. However, the

1 revocation is stayed and Respondent is placed on probation for five years on the following terms  
2 and conditions:

3 1. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations.  
4 Respondent shall report any of the following occurrences to the Board in writing within  
5 72 hours of such occurrence:

- 6 • An arrest or issuance of a criminal complaint for violation of any provision of the  
7 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
8 substances laws
- 9 • A plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal  
10 proceeding to any criminal complaint, information or indictment
- 11 • A conviction of any crime
- 12 • The filing of a disciplinary pleading, issuance of a citation, or initiation of another  
13 administrative action filed by any state or federal agency which involves Respondent's  
14 license or which is related to the practice of pharmacy or the manufacturing, obtaining,  
15 handling, distributing, billing, or charging for any drug, device, or controlled substance  
16 Failure to timely report such occurrence shall be considered a violation of probation.

17 2. **Report to the Board.** Respondent shall report to the Board quarterly on a  
18 schedule as directed by the Board or its designee. The report shall be made either in person or in  
19 writing, as directed. Among other requirements, Respondent shall state in each report under  
20 penalty of perjury whether there has been compliance with all the terms and conditions of  
21 probation.

22 Failure to submit timely reports in a form as directed shall be considered a violation of  
23 probation. Any period(s) of delinquency in submission of reports as directed may be added to the  
24 total period of probation. Moreover, if the final probation report is not made as directed,  
25 probation shall be automatically extended until such time as the final report is made and accepted  
26 by the Board.

27 3. **Interview with the Board.** Upon receipt of reasonable prior notice, Respondent  
28 shall appear in person for interviews with the Board or its designee at such intervals and locations

1 as are determined by the Board or its designee. Failure to appear for any scheduled interview  
2 without prior notification to Board staff or failure to appear for two or more scheduled interviews  
3 with the Board or its designee during the period of probation shall be considered a violation of  
4 probation.

5         **4. Cooperate with Board Staff.** Respondent shall timely cooperate with the Board's  
6 inspection program and with the Board's monitoring and investigation of Respondent's  
7 compliance with the terms and conditions of his probation, including but not limited to timely  
8 responses to requests for information by Board staff, timely compliance with directives from  
9 Board staff regarding requirements of any term or condition of probation, and timely completion  
10 of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall  
11 be considered a violation of probation.

12         **5. Reporting of Employment and Notice to Employers.** During the period of  
13 probation, Respondent shall notify all present and prospective employers of the decision in  
14 Accusation No. 7093 and the terms, conditions, and restrictions imposed on Respondent by the  
15 decision as follows:

16         Within 30 days of the effective date of this decision and within 10 days of undertaking  
17 any new employment, Respondent shall report to the Board in writing the name, physical address,  
18 and mailing address of each of his employer(s), and the name(s) and telephone number(s) of all of  
19 his direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-  
20 charge, responsible manager, or other compliance supervisor(s), and the work schedule, if known.  
21 Respondent shall also include the reason(s) for leaving the prior employment. Respondent shall  
22 sign and return to the Board a written consent authorizing the Board or its designee to  
23 communicate with all of Respondent's employer(s) and supervisor(s), and authorizing those  
24 employer(s) or supervisor(s) to communicate with the Board or its designee concerning  
25 Respondent's work status, performance, and monitoring. Failure to comply with the requirements  
26 or deadlines of this condition shall be considered a violation of probation.

27         Within 30 days of the effective date of this decision and within 15 days of Respondent  
28 undertaking any new employment, Respondent shall cause (a) his direct supervisor, (b) his

1 pharmacist-in-charge, designated representative-in-charge, responsible manager, or other  
2 compliance supervisor, and (c) the owner or owner representative of his employer to report to the  
3 Board in writing acknowledging that the listed individual(s) has/have read the decision in  
4 Accusation No. 7093 and terms and conditions imposed by it. If one person serves in more than  
5 one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be Respondent's  
6 responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the  
7 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term  
8 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the Board in  
9 writing within 15 days of the change acknowledging that he or she has read the decision in  
10 Accusation No. 7093 and the terms and conditions imposed by it.

11 If Respondent works for or is employed by or through an employment service,  
12 Respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed  
13 by the Board of the decision in Accusation No. 7093 and the terms and conditions imposed by it  
14 in advance of Respondent commencing work at such licensed entity. A record of this notification  
15 must be provided to the Board upon request.

16 Furthermore, within 30 days of the effective date of this decision and within 15 days of  
17 Respondent undertaking any new employment by or through an employment service, Respondent  
18 shall cause the person(s) described in (a), (b), and (c) above at the employment service to report  
19 to the Board in writing acknowledging that he or she has read the decision in Accusation No.  
20 7093 and the terms and conditions imposed by it. It shall be Respondent's responsibility to  
21 ensure that these acknowledgment(s) are timely submitted to the Board.

22 Failure to timely notify present or prospective employer(s) or failure to cause the  
23 identified person(s) with that/those employer(s) to submit timely written acknowledgments to the  
24 Board shall be considered a violation of probation.

25 "Employment" within the meaning of this provision includes any full-time, part-time,  
26 temporary, relief, or employment/management service position as a pharmacy technician, or any  
27 position for which a pharmacy technician registration is a requirement or criterion for  
28 employment, whether Respondent is an employee, independent contractor, or volunteer.

1           **6. Notification of Change(s) in Name, Address(es), or Phone Number(s).**

2           Respondent shall further notify the Board in writing within 10 days of any change in  
3 name, residence address, mailing address, e-mail address or phone number.

4           Failure to timely notify the Board of any change in employer, name, address, or phone  
5 number shall be considered a violation of probation.

6           **7. Reimbursement of Board Costs.** As a condition precedent to successful  
7 completion of probation, Respondent shall pay to the Board its costs of investigation and  
8 prosecution in the amount of \$3,068.75. Respondent shall be permitted to pay these costs in a  
9 payment plan approved by the Board or its designee, so long as full payment is completed no later  
10 than one year prior to the end date of probation. There shall be no deviation from this schedule  
11 absent prior written approval by the Board or its designee. Failure to pay costs by the deadline(s)  
12 as directed shall be considered a violation of probation.

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

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

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

25           **10. License Surrender While on Probation/Suspension.** Following the effective  
26 date of this decision, should Respondent cease practice due to retirement or health, or be  
27 otherwise unable to satisfy the terms and conditions of probation, Respondent may relinquish his  
28 license, including any indicia of licensure issued by the Board, along with a request to surrender



1 the license. The Board or its designee shall have the discretion whether to accept the surrender or  
2 take any other action it deems appropriate and reasonable. Upon formal acceptance of the  
3 surrender of the license, Respondent will no longer be subject to the terms and conditions of  
4 probation. This surrender constitutes a record of discipline and shall become a part of the  
5 Respondent's license history with the Board.

6 Upon acceptance of the surrender, Respondent shall relinquish his pocket and/or wall  
7 license, including any indicia of licensure not previously provided to the Board, within 10 days of  
8 notification by the Board that the surrender is accepted if not already provided. Respondent may  
9 not reapply for any license from the Board for three years from the effective date of the surrender.  
10 Respondent shall meet all requirements applicable to the license sought as of the date the  
11 application for that license is submitted to the Board, including any outstanding costs.

12 **11. Certification Prior to Resuming Work.** Respondent shall be suspended and  
13 shall not work as a pharmacy technician until he has been certified as defined by Business and  
14 Professions Code section 4202, subdivision (a)(4), has submitted proof of certification to the  
15 Board, and has been notified by the Board or its designee that he may begin work. Failure to  
16 achieve certification within six months of the effective date shall be considered a violation of  
17 probation.

18 During suspension, Respondent shall not enter any pharmacy area or any portion of any  
19 other Board-licensed premises of a wholesaler, third-party logistics provider, veterinary food-  
20 animal drug retailer or any other distributor of drugs which is licensed by the Board, or any  
21 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled  
22 substances are maintained.

23 Respondent shall not do any act involving drug selection, selection of stock,  
24 manufacturing, compounding, or dispensing; nor shall Respondent manage, administer, or assist  
25 any licensee of the Board. Respondent shall not have access to or control the ordering,  
26 distributing, manufacturing, or dispensing of dangerous drugs and/or dangerous devices or  
27 controlled substances.

28 During this suspension, Respondent shall not engage in any activity that requires licensure

1 as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of  
2 pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or  
3 dangerous devices, or controlled substances.

4 Failure to comply with any such suspension shall be considered a violation of probation.

5 12. **Practice Requirement – Extension of Probation.** Except during periods of  
6 suspension, Respondent shall at all times while on probation be employed as a pharmacy  
7 technician in California for a minimum of 80 hours per calendar month. Any month during which  
8 this minimum is not met shall extend the period of probation by one month. During any such  
9 period of insufficient employment, Respondent must nonetheless comply with all terms and  
10 conditions of probation unless Respondent receives a waiver in writing from the Board or its  
11 designee.

12 If Respondent does not practice as a pharmacy technician in California for the minimum  
13 number of hours in any calendar month for any reason (including vacation), Respondent shall  
14 notify the Board in writing within 10 days of the conclusion of that calendar month. This  
15 notification shall include at least the date(s), location(s), and hours of last practice; the reason(s)  
16 for the interruption or reduction in practice; and the anticipated date(s) on which Respondent will  
17 resume practice at the required level. Respondent shall further notify the Board in writing within  
18 10 days following the next calendar month during which Respondent practices as a pharmacy  
19 technician in California for the minimum of hours. Any failure to timely provide such  
20 notification(s) shall be considered a violation of probation.

21 It is a violation of probation for Respondent's probation to be extended under the  
22 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
23 exceeding 36 months. The Board or its designee may post a notice of the extended probation  
24 period on its website.

25 13. **Violation of Probation.** If Respondent has not complied with any term or  
26 condition of probation, the Board shall have continuing jurisdiction over Respondent and the  
27 Board shall provide notice to Respondent that probation shall automatically be extended until all  
28 terms and conditions have been satisfied or the Board has taken other action as deemed

1 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
2 to impose the penalty that was stayed. The Board or its designee may post a notice of the  
3 extended probation period on its website.

4 If Respondent violates probation in any respect, the Board, after giving Respondent notice  
5 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
6 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during  
7 probation, or the preparation of an accusation or petition to revoke probation is requested from  
8 the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of  
9 probation shall be automatically extended until the petition to revoke probation or accusation is  
10 heard and decided.

11 14. **Completion of Probation.** Upon written notice by the Board or its designee  
12 indicating successful completion of probation, Respondent's license will be fully restored.

13 15. **Drug and Alcohol Testing.** Respondent, at his own expense, shall participate in  
14 testing as directed by the Board or its designee for the detection of alcohol, controlled substances,  
15 and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid  
16 testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by  
17 the Board or its designee. All testing must be under an observed testing protocol unless  
18 Respondent is informed otherwise in writing by the Board or its designee. Respondent may be  
19 required to participate in testing for the entire probation period and frequency of testing will be  
20 determined by the Board or its designee.

21 By no later than 30 days after the effective date of this decision, Respondent shall have  
22 completed all of the following tasks: enrolled and registered with an approved drug and alcohol  
23 testing vendor, provided that vendor with any documentation and any information necessary for  
24 payment by Respondent, commenced testing protocols including all required contacts with the  
25 testing vendor to determine testing date(s), and begun testing. At all times, Respondent shall  
26 fully cooperate with the testing vendor and with the Board or its designee with regard to  
27 enrollment, registration, and payment for and compliance with, testing. Any failure to cooperate  
28 timely shall be considered a violation of probation.

1 Respondent may be required to test on any day, including weekends and holidays.

2 Respondent is required to make daily contact with the testing vendor to determine if a test is  
3 required, and if a test is required must submit to testing on the same day.

4 Prior to any vacation or other period of absence from the area where the approved testing  
5 vendor provides services, Respondent shall seek and receive approval from the Board or its  
6 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,  
7 Respondent shall enroll and register with the approved alternate drug testing vendor, and provide  
8 to that alternate vendor any documentation required by the vendor including any necessary  
9 payment by Respondent. During the period of absence of the area, Respondent shall commence  
10 testing protocols with the alternate vendor, including required daily contacts with the testing  
11 vendor to determine if testing is required, and required testing. Any failure to timely seek or  
12 receive approval from the Board or its designee, or to timely enroll and register with, timely  
13 commence testing protocols with, or timely undergo testing with, the alternate testing vendor  
14 shall be considered a violation of probation.

15 Upon detection of an illicit drug, controlled substance, or dangerous drug, the Board or its  
16 designee may require Respondent to timely provide documentation from a licensed practitioner  
17 authorized to prescribe the detected substance demonstrating that the substance was administered  
18 or ingested under a legitimate prescription issued as a necessary part of treatment. All such  
19 documentation shall be provided by Respondent within 10 days of being requested.

20 Any of the following shall be considered a violation of probation and shall result in  
21 Respondent being immediately suspended from practice as a pharmacy technician until notified  
22 by the Board in writing that he may resume practice: failure to timely complete all of the steps  
23 required for enrollment/registration with the drug testing vendor, including making arrangements  
24 for payment; failure to timely commence drug testing protocols; failure to contact the drug testing  
25 vendor as required to determine testing date(s); failure to test as required; failure to timely supply  
26 documentation demonstrating that a detected substance was taken pursuant to a legitimate  
27 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or  
28 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the

1 detected substance was taken under a legitimate prescription and a necessary treatment. In the  
2 event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a  
3 controlled substance or dangerous drug absent documentation that the detected substance was  
4 taken under a legitimate prescription and a necessary treatment, the Board or its designee shall  
5 inform Respondent of the suspension and inform him to immediately leave work, and shall notify  
6 Respondent's employer(s) and work site monitor(s) of the suspension.

7 During any such suspension, Respondent shall not enter any pharmacy area or any portion  
8 of the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal  
9 drug retailer, or any other distributor of drugs which is licensed by the Board, or any  
10 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled  
11 substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug  
12 selection, selection of stock, manufacturing, compounding, dispensing, or patient consultation;  
13 nor shall Respondent manage, administer, or be a consultant to any licensee of the Board, or have  
14 access to or control the ordering, distributing, manufacturing, or dispensing of dangerous drugs  
15 and/or dangerous devices and controlled substances.

16 During any such suspension, Respondent shall not engage in any activity that requires the  
17 professional judgment of and/or licensure as a pharmacy technician Respondent shall not direct  
18 or control any aspect of the practice of pharmacy, or of the manufacturing, distributing,  
19 wholesaling, or retailing of dangerous drugs and/or dangerous devices.

20 Failure to comply with any such suspension shall be considered a violation of probation.  
21 Failure to comply with any requirement or deadline stated by this term shall be considered a  
22 violation of probation.

23 **16. Notification of Departure.** Prior to leaving the probationary geographic area  
24 designated by the Board or its designee for a period greater than 24 hours, Respondent shall  
25 notify the Board verbally and in writing of the dates of departure and return. Failure to comply  
26 with this provision shall be considered a violation of probation.

27 **17. Abstain from Drugs and Alcohol.** Respondent shall completely abstain from the  
28 possession or use of alcohol, controlled substances, illicit drugs, dangerous drugs and/or

1 dangerous devices, or their associated paraphernalia, except when possessed or used under a  
2 legitimate prescription issued as a necessary part of treatment. Respondent shall ensure that he is  
3 not in the same physical location as individuals who are using illicit substances even if  
4 Respondent is not personally ingesting the drugs. Any possession or use of alcohol, dangerous  
5 drugs and/or dangerous devices or controlled substances, or their associated paraphernalia for  
6 which a legitimate prescription has not been issued as a necessary part of treatment, or any  
7 physical proximity to persons using illicit substances, shall be considered a violation of probation.

8       **18. Prescription Coordination and Monitoring of Prescription Use.** Within 30  
9 days of the effective date of this decision, Respondent shall submit to the Board for its prior  
10 approval the name and qualifications of a single physician, nurse practitioner, physician assistant,  
11 or psychiatrist of Respondent's choice who shall be aware of the Respondent's history with the  
12 use of alcohol and controlled substances and who will coordinate and monitor any prescriptions  
13 for Respondent for dangerous drugs and/or dangerous devices, controlled substances, or mood-  
14 altering drugs. The approved practitioner shall be provided with a copy of the Board's accusation  
15 and decision. A record of this notification must be provided to the Board or its designee upon  
16 request. Respondent shall sign a release authorizing the practitioner to communicate with the  
17 Board or its designee about Respondent's treatment(s). The coordinating physician, nurse  
18 practitioner, physician assistant, or psychiatrist shall report to the Board on a quarterly basis for  
19 the duration of probation regarding Respondent's compliance with this condition. If any  
20 substances considered addictive have been prescribed, the report shall identify a program for the  
21 time-limited use of any such substances. The Board or its designee may require that the single  
22 coordinating physician, nurse practitioner, physician assistant, or psychiatrist be a specialist in  
23 addictive medicine or consult a specialist in addictive medicine. Should Respondent for any  
24 reason cease supervision by the approved practitioner, Respondent shall notify the Board or its  
25 designee immediately and within 30 days of ceasing supervision submit the name of a  
26 replacement physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's  
27 choice to the Board or its designee for its prior approval. Failure to timely submit the selected  
28 practitioner or replacement practitioner to the Board or its designee for approval or to ensure the

1 required quarterly reporting by the practitioner shall be considered a violation of probation.

2 If at any time an approved practitioner determines that Respondent is unable to practice  
3 safely or independently as a pharmacy technician, the practitioner shall notify the Board or its  
4 designee immediately by telephone and follow up by written letter within three working days.  
5 Upon notification from the Board or its designee of this determination, Respondent shall be  
6 automatically suspended and shall not resume practice as a pharmacy technician until notified by  
7 the Board or its designee that practice may be resumed.

8 During any suspension, Respondent shall not enter any pharmacy area or any portion of  
9 the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug  
10 retailer, or any other distributor of drugs which is licensed by the Board, or any manufacturer, or  
11 any area where dangerous drugs and/or dangerous devices or controlled substances are  
12 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,  
13 selection of stock, manufacturing, compounding, dispensing, or patient consultation; nor shall  
14 Respondent manage, administer, or be a consultant to any licensee of the Board, or have access to  
15 or control the ordering, distributing, manufacturing, or dispensing of dangerous drugs and/or  
16 dangerous devices and controlled substances. Respondent shall not resume practice until notified  
17 by the Board.

18 During any suspension, Respondent shall not engage in any activity that requires the  
19 professional judgment and/or licensure as a pharmacy technician. Respondent shall not direct or  
20 control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling,  
21 or retailing of dangerous drugs and/or dangerous devices or controlled substances.

22 Failure to comply with any requirement or deadline stated by this term shall be considered  
23 a violation of probation.

24 **19. Attend Substance Abuse Recovery Relapse Prevention and Support Groups.**

25 Within 30 days of the effective date of this decision, Respondent shall begin regular attendance at  
26 a recognized and established substance abuse recovery support group in California (e.g.,  
27 Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board or its  
28 designee. Respondent must attend the number of group meetings per week or month directed by

1 the Board or its designee, which shall typically be at least one per week. Respondent shall  
2 continue regular attendance and submit signed and dated documentation confirming attendance  
3 with each quarterly report for the duration of probation. Failure to attend or submit  
4 documentation thereof shall be considered a violation of probation.

5         **20. Work Site Monitor.** Within 10 days of the effective date of this decision,  
6 Respondent shall identify a work site monitor for prior approval by the Board or its designee who  
7 shall be responsible for supervising Respondent during working hours. Respondent shall be  
8 responsible for ensuring that the work site monitor reports in writing to the Board monthly or on  
9 another schedule as directed by the Board or its designee. Should the designated work site  
10 monitor suspect at any time during the probationary period that Respondent has abused alcohol or  
11 drugs, he or she shall notify the Board immediately.

12         In the event of suspected abuse, the monitor shall make at least oral notification within  
13 one business day of the occurrence and shall be followed by written notification within two  
14 business days of the occurrence. If, for any reason, including change of employment, Respondent  
15 is no longer able to be monitored by the approved work site monitor, within 10 days Respondent  
16 shall designate a new work site monitor for approval by the Board or its designee. Failure to  
17 timely identify an acceptable initial or replacement work site monitor or to ensure monthly  
18 reports are submitted to the Board by the monitor shall be considered a violation of probation.

19         Within 30 days of being approved by the Board or its designee, the work site monitor shall  
20 sign an affirmation that he or she has reviewed the terms and conditions of Respondent's  
21 disciplinary order and agrees to monitor Respondent. The work site monitor shall at least:

22                 1) Have regular face-to-face contact with Respondent in the work  
23 environment at least once per week or with greater frequency if required by the Board or its  
24 designee;

25                 2) Interview other staff in the office regarding Respondent's behavior, if  
26 applicable; and

27                 3) Review Respondent's work attendance.

28         The written reports submitted to the Board or its designee by the work site monitor shall




1 include at least the following information: Respondent's name and license number; the monitor's  
2 name, license number (if applicable), and work site location; the date(s) the monitor had face-to-  
3 face contact with Respondent; the staff interviewed, if applicable; an attendance report; notes on  
4 any changes in Respondent's behavior or personal habits; notes on any indicators that may lead to  
5 substance abuse; and the work site monitor's signature.

6 Respondent shall complete the required consent forms and sign an agreement with the  
7 work site monitor and the Board to allow the Board to communicate with the work site monitor.

8 **ACCEPTANCE**

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have  
10 fully discussed it with my attorney, Negin Yamini. I understand the stipulation and the effect it  
11 will have on my Original Pharmacy Technician Registration No. TCH 155639. I enter into this  
12 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree  
13 to be bound by the Decision and Order of the Board of Pharmacy.

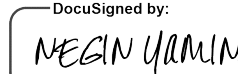
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16  
17 RICHARD ANTHONY HERNANDEZ  
18 Respondent

19 I have read and fully discussed with Respondent Richard Anthony Hernandez the terms  
20 and conditions and other matters contained in this Stipulated Settlement and Disciplinary Order. I  
21 approve its form and content.

22  
23 DATED: 6/8/2021

DocuSigned by:  
  
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25 NEGIN YAMINI  
26 Attorney for Respondent

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
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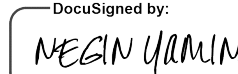
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16  
17 RICHARD ANTHONY HERNANDEZ  
Respondent

18  
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20 and conditions and other matters contained in this Stipulated Settlement and Disciplinary Order. I  
21 approve its form and content.

22  
23 DATED: 6/8/2021

DocuSigned by:  
  
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24  
25 NEGIN YAMINI  
Attorney for Respondent

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**ENDORSEMENT**

This Stipulated Settlement and Disciplinary Order is submitted for consideration by the Board of Pharmacy.

DATED: \_\_\_\_\_

Respectfully submitted,

ROB BONTA  
Attorney General of California  
CHAR SACHSON  
Supervising Deputy Attorney General

GREGORY TUSS  
Deputy Attorney General  
*Attorneys for Complainant*

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**ENDORSEMENT**

This Stipulated Settlement and Disciplinary Order is submitted for consideration by the Board of Pharmacy.

DATED: 6-9-21 \_\_\_\_\_

Respectfully submitted,

ROB BONTA  
Attorney General of California  
CHAR SACHSON  
Supervising Deputy Attorney General



GREGORY TUSS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit 1**

**Accusation No. 7093**

1 XAVIER BECERRA  
Attorney General of California  
2 CHAR SACHSON  
Supervising Deputy Attorney General  
3 GREGORY TUSS  
Deputy Attorney General  
4 State Bar No. 200659  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3435  
6 Facsimile: (415) 703-5480  
E-mail: Gregory.Tuss@doj.ca.gov  
7 *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. 7093

13 **RICHARD ANTHONY HERNANDEZ**  
14 **19635 Times Ave**  
**Hayward, CA 94541**

**ACCUSATION**

15 **Original Pharmacy Technician Registration**  
16 **No. TCH 155639**

17 Respondent.

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19  
20 **PARTIES**

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

23 2. On or about August 12, 2016, the Board of Pharmacy issued Original Pharmacy  
24 Technician Registration Number TCH 155639 to Richard Anthony Hernandez (Respondent).  
25 The Original Pharmacy Technician Registration was in full force and effect at all times relevant  
26 to the charges brought herein and will expire on December 31, 2021, 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 unless otherwise indicated.

4. Section 4300 states in part:

“(a) Every license issued may be suspended or revoked.

“(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

“(1) Suspending judgment.

“(2) Placing him or her upon probation.

“(3) Suspending his or her right to practice for a period not exceeding one year.

“(4) Revoking his or her license.

“(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.”

5. Section 4300.1 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 AND REGULATORY AUTHORITY**

6. Section 490, subdivision (a), states:

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

7. Section 4301 states in part:

“The board shall take action against any holder of a license who is guilty of

unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct includes, 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.

...

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

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

“For the purpose of denial, suspension, or revocation of a personal or facility license



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

### 6 7 **COST RECOVERY**

8 9. Section 125.3, subdivision (a), states:

9 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
10 proceeding before any board within the department or before the Osteopathic Medical Board,  
11 upon request of the entity bringing the proceeding, the administrative law judge may direct a  
12 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
13 to exceed the reasonable costs of the investigation and enforcement of the case.”

### 14 15 **FIRST CAUSE FOR DISCIPLINE**

16 **(July 3, 2020, Criminal Conviction – DUI on October 6, 2019)**

17 10. Respondent has subjected his pharmacy technician registration to discipline under  
18 Business and Professions Code sections 490 and 4301, subdivision (I), for a conviction. On July  
19 2, 2020, in *The People of the State of California v. Richard Anthony Hernandez*, Alameda County  
20 Superior Court Case No. 19-CR-018127, Respondent plead no contest to Driving Under The  
21 Influence Of Drugs and Alcohol, (Veh. Code, § 23152, subd. (g)), a misdemeanor. Imposition of  
22 sentence was suspended, and Respondent was placed on three years’ probation. Terms and  
23 conditions of probation included 2 days’ incarceration, attend and complete of a state license  
24 school for Driving Under the Influence for three (3) months and pay a total fine of \$440. The  
25 circumstances that led to the arrest resulting in the July 2, 2020, conviction are that on October 6,  
26 2019, Respondent was under the combined influence of drugs and alcohol and crashed into  
27 multiple parked cars in Hayward, California. His blood alcohol concentration measured 0.21  
28 percent and Benzodiazepines: Diazepam and Nordiazepam were detected in his blood.

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