

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

In the Matter of the Accusation Against:

**ERICK A. HERNANDEZ
Pharmacy Technician Registration No. TCH 102440**

Respondent.

Agency Case No. 7479

OAH No. 2023060908

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 October 18, 2023.

It is so ORDERED on September 18, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
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 **ERICK A. HERNANDEZ**
14 **4816 Harbor Ct.**
Palmdale, CA 93552
15 **Pharmacy Technician Registration No. TCH**
16 **102440**
17 Respondent.

Case No. 7479
OAH No. 2023060908
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

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

26 2. Erick A. Hernandez (Respondent) is representing himself in this proceeding and has
27 chosen not to exercise his right to be represented by counsel.

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1 Respondent is placed on probation for five (5) years on the following terms and conditions:

2 **1. Obey All Laws**

3 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 seventy- two (72) hours of such occurrence:

- 6 • an arrest or issuance of a criminal complaint for violation of any provision of
7 the Pharmacy Law, state and federal food and drug laws, or state and federal
8 controlled substances laws
- 9 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
10 criminal 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
13 another

14 administrative action filed by any state or federal agency which involves
15 respondent's license or which is related to the practice of pharmacy or the
16 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
17 device or controlled substance.

18 Failure to timely report such occurrence shall be considered a violation of probation.

19 **2. Report to the Board**

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

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

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1 **3. Interview with the Board**

2 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
3 with the board or its designee, at such intervals and locations as are determined by the board or its
4 designee. Failure to appear for any scheduled interview without prior notification to board staff,
5 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
6 the period of probation, shall be considered a violation of probation.

7 **4. Cooperate with Board Staff**

8 Respondent shall timely cooperate with the board's inspection program and with the board's
9 monitoring and investigation of respondent's compliance with the terms and conditions of his
10 probation, including but not limited to: timely responses to requests for information by board
11 staff; timely compliance with directives from board staff regarding requirements of any term or
12 condition of probation; and timely completion of documentation pertaining to a term or condition
13 of probation. Failure to timely cooperate shall be considered a violation of probation.

14 **5. Reporting of Employment and Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 7479 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

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

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b)
3 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
4 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
5 board in writing acknowledging that the listed individual(s) has/have read the decision in case
6 number 7479, and terms and conditions imposed thereby. If one person serves in more than one
7 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
8 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
9 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
10 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
11 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
12 in case number 7479, and the terms and conditions imposed thereby.

13 If respondent works for or is employed by or through an employment service, respondent
14 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
15 of the decision in case number 7479, and the terms and conditions imposed thereby in advance of
16 respondent commencing work at such licensed entity. A record of this notification must be
17 provided to the board upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of respondent undertaking any new employment by or through an employment service,
20 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
21 to report to the board in writing acknowledging that he or she has read the decision in case
22 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to
23 ensure that these acknowledgment(s) are timely submitted to the board.

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

27 "Employment" within the meaning of this provision includes any full-time, part-time,
28 temporary, relief, or employment/management service position as a pharmacy technician, or any

1 position for which a pharmacy technician is a requirement or criterion for employment, whether
2 the respondent is an employee, independent contractor or volunteer.

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

4 Respondent shall further notify the board in writing within ten (10) days of any change in
5 name, residence address, mailing address, e-mail address or phone number.

6 Failure to timely notify the board of any change in employer, name, address, or phone
7 number shall be considered a violation of probation.

8 **7. Reimbursement of Board Costs**

9 As a condition precedent to successful completion of probation, respondent shall pay to the
10 board its costs of investigation and prosecution in the amount of \$7,998.25. Respondent shall be
11 permitted to pay these costs in a payment plan approved by the board or its designee, so long as
12 full payment is completed no later than one (1) year prior to the end date of probation.

13 **8. Probation Monitoring Costs**

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

18 **9. Status of License**

19 Respondent shall, at all times while on probation, maintain an active, current Pharmacy
20 Technician Registration with the board, including any period during which suspension or
21 probation is tolled. Failure to maintain an active, current Pharmacy Technician Registration shall
22 be considered a violation of probation.

23 If Respondent's Pharmacy Technician Registration expires or is cancelled by operation of
24 law or otherwise at any time during the period of probation, including any extensions thereof due
25 to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
26 terms and conditions of this probation not previously satisfied.

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1 **10. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 respondent may relinquish his license, including any indicia of licensure issued by the board,
5 along with a request to surrender the license. The board or its designee shall have the discretion
6 whether to accept the surrender or take any other action it deems appropriate and reasonable.
7 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
8 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
9 become a part of the respondent’s license history with the board.

10 Upon acceptance of the surrender, respondent shall relinquish his pocket and/or wall
11 license, including any indicia of licensure not previously provided to the board within ten (10)
12 days of notification by the board that the surrender is accepted if not already provided.
13 Respondent may not reapply for any license from the board for three (3) years from the effective
14 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
15 of the date the application for that license is submitted to the board, including any outstanding
16 costs.

17 **11. Certification Prior to Resuming Work**

18 Respondent shall be suspended, and shall not work as a pharmacy technician, until he has
19 been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has
20 submitted proof of certification to the board, and has been notified by the board or its designee
21 that he may begin work. Failure to achieve certification within six (6) months of the effective
22 date shall be considered a violation of probation.

23 During suspension, respondent shall not enter any pharmacy area or any portion of any
24 other board licensed premises of a wholesaler, third-party logistics provider, veterinary food-
25 animal drug retailer or any other distributor of drugs which is licensed by the board, or any
26 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled
27 substances are maintained.

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1 Respondent shall not do any act involving drug selection, selection of stock, manufacturing,
2 compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the
3 board. Respondent shall not have access to or control the ordering, distributing, manufacturing or
4 dispensing of dangerous drugs and/or dangerous devices or controlled substances.

5 During this suspension, respondent shall not engage in any activity that requires licensure
6 as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of
7 pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or
8 dangerous devices, or controlled substances.

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

10 **12. Practice Requirement – Extension of Probation**

11 Except during periods of suspension, respondent shall, at all times while on probation, be
12 employed as a pharmacy technician in California for a minimum of 100 hours per calendar
13 month. Any month during which this minimum is not met shall extend the period of probation by
14 one month. During any such period of insufficient employment, respondent must nonetheless
15 comply with all terms and conditions of probation, unless respondent receives a waiver in writing
16 from the board or its designee.

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

26 It is a violation of probation for respondent's probation to be extended pursuant to the
27 provisions of this condition for a total period, counting consecutive and non-consecutive months,
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1 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
2 probation period on its website.

3 **13. Violation of Probation**

4 If respondent has not complied with any term or condition of probation, the board shall
5 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
6 that probation shall automatically be extended, until all terms and conditions have been satisfied
7 or the board has taken other action as deemed appropriate to treat the failure to comply as a
8 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
9 board or its designee may post a notice of the extended probation period on its website.

10 If respondent violates probation in any respect, the board, after giving respondent notice
11 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
12 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
13 probation, or the preparation of an accusation or petition to revoke probation is requested from
14 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
15 probation shall be automatically extended until the petition to revoke probation or accusation is
16 heard and decided.

17 **14. Completion of Probation**

18 Upon written notice by the board or its designee indicating successful completion of
19 probation, respondent's license will be fully restored.

20 **15. Drug and Alcohol Testing**

21 Respondent, at his own expense, shall participate in testing as directed by the board or its
22 designee for the detection of alcohol, controlled substances, and dangerous drugs and/or
23 dangerous devices. Testing protocols may include biological fluid testing (urine, blood),
24 breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its
25 designee. All testing must be pursuant to an observed testing protocol, unless respondent is
26 informed otherwise in writing by the board or its designee. Respondent may be required to
27 participate in testing for the entire probation period and frequency of testing will be determined
28 by the board or its designee.

1 By no later than thirty (30) days after the effective date of this decision, respondent shall
2 have completed all of the following tasks: enrolled and registered with an approved drug and
3 alcohol testing vendor; provided that vendor with any documentation, and any information
4 necessary for payment by respondent; commenced testing protocols, including all required
5 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,
6 respondent shall fully cooperate with the testing vendor, and with the board or its designee, with
7 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to
8 cooperate timely shall be considered a violation of probation.

9 Respondent may be required to test on any day, including weekends and holidays.
10 Respondent is required to make daily contact with the testing vendor to determine if a test is
11 required, and if a test is required must submit to testing on the same day.

12 Prior to any vacation or other period of absence from the area where the approved testing
13 vendor provides services, respondent shall seek and receive approval from the board or its
14 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,
15 respondent shall enroll and register with the approved alternate drug testing vendor, provide to
16 that alternate vendor any documentation required by the vendor, including any necessary payment
17 by respondent. During the period of absence of the area, respondent shall commence testing
18 protocols with the alternate vendor, including required daily contacts with the testing vendor to
19 determine if testing is required, and required testing. Any failure to timely seek or receive
20 approval from the board or its designee, or to timely enroll and register with, timely commence
21 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be
22 considered a violation of probation.

23 Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its
24 designee may require respondent to timely provide documentation from a licensed practitioner
25 authorized to prescribe the detected substance demonstrating that the substance was administered
26 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such
27 documentation shall be provided by respondent within ten (10) days of being requested.

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1 Any of the following shall be considered a violation of probation and shall result in
2 respondent being immediately suspended from practice as a pharmacy technician until notified by
3 the board in writing that he may resume practice: failure to timely complete all of the steps
4 required for enrollment/registration with the drug testing vendor, including making arrangements
5 for payment; failure to timely commence drug testing protocols; failure to contact the drug testing
6 vendor as required to determine testing date(s); failure to test as required; failure to timely supply
7 documentation demonstrating that a detected substance was taken pursuant to a legitimate
8 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or
9 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the
10 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In
11 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a
12 controlled substance or dangerous drug absent documentation that the detected substance was
13 taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee
14 shall inform respondent of the suspension and inform him to immediately leave work, and shall
15 notify respondent's employer(s) and work site monitor(s) of the suspension.

16 During any such suspension, respondent shall not enter any pharmacy area or any portion of
17 the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug
18 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
19 any area where dangerous drugs and/or dangerous devices or controlled substances are
20 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
21 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
22 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
23 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
24 dangerous devices and controlled substances.

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

1 Failure to comply with any such suspension shall be considered a violation of probation.
2 Failure to comply with any requirement or deadline stated by this term shall be considered a
3 violation of probation.

4 **16. Notification of Departure**

5 Prior to leaving the probationary geographic area designated by the board or its designee for
6 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
7 writing of the dates of departure and return. Failure to comply with this provision shall be
8 considered a violation of probation.

9 **17. Abstain from Drugs and Alcohol**

10 Respondent shall completely abstain from the possession or use of alcohol, controlled
11 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated
12 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a
13 necessary part of treatment. Respondent shall ensure that he is not in the same physical location
14 as individuals who are using illicit substances even if respondent is not personally ingesting the
15 drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled
16 substances, or their associated paraphernalia for which a legitimate prescription has not been
17 issued as a necessary part of treatment, or any physical proximity to persons using illicit
18 substances, shall be considered a violation of probation.

19 **18. Prescription Coordination and Monitoring of Prescription Use**

20 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
21 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
22 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
23 history with the use of alcohol, illicit drugs, controlled substances, and/or dangerous drugs and
24 who will coordinate and monitor any prescriptions for respondent for dangerous drugs and/or
25 dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall
26 be provided with a copy of the board's Accusation and decision. A record of this notification
27 must be provided to the board or its designee upon request. Respondent shall sign a release
28 authorizing the practitioner to communicate with the board or its designee about respondent's

1 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
2 shall report to the board on a quarterly basis for the duration of probation regarding respondent's
3 compliance with this condition. If any substances considered addictive have been prescribed, the
4 report shall identify a program for the time limited use of any such substances. The board or its
5 designee may require that the single coordinating physician, nurse practitioner, physician assistant
6 or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
7 Should respondent, for any reason, cease supervision by the approved practitioner, respondent
8 shall notify the board or its designee immediately and, within thirty (30) days of ceasing
9 supervision, submit the name of a replacement physician, nurse practitioner, physician assistant,
10 or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to
11 timely submit the selected practitioner or replacement practitioner to the board or its designee for
12 approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of
13 probation.

14 If at any time an approved practitioner determines that respondent is unable to practice
15 safely or independently as a pharmacy technician, the practitioner shall notify the board or its
16 designee immediately by telephone and follow up by written letter within three (3) working days.
17 Upon notification from the board or its designee of this determination, respondent shall be
18 automatically suspended and shall not resume practice as a pharmacy technician until notified by
19 the board or its designee that practice may be resumed.

20 During any suspension, respondent shall not enter any pharmacy area or any portion of the
21 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
22 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
23 any area where dangerous drugs and/or dangerous devices or controlled substances are
24 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
25 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
26 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
27 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
28

1 dangerous devices and controlled substances. Respondent shall not resume practice until notified
2 by the board.

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

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

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

10 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
11 attendance at a recognized and established substance abuse recovery support group in California
12 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
13 or its designee. Respondent must attend the number of group meetings per week or month
14 directed by the board or its designee, which shall typically be at least one per week. Respondent
15 shall continue regular attendance and submit signed and dated documentation confirming
16 attendance with each quarterly report for the duration of probation. Failure to attend or submit
17 documentation thereof shall be considered a violation of probation.

18 Where respondent is enrolled in the Pharmacists Recovery Program (PRP), participation as
19 required in a recovery group meeting approved by the PRP shall be sufficient for satisfaction of
20 this requirement. Any deviation from participation requirements for the PRP-approved group
21 shall be considered a violation of probation.

22 **20. Work Site Monitor**

23 Within ten (10) days of the effective date of this decision, respondent shall identify a work
24 site monitor, for prior approval by the board or its designee, who shall be responsible for
25 supervising respondent during working hours. Respondent shall be responsible for ensuring that
26 the work site monitor reports in writing to the board monthly or on another schedule as directed
27 by the board or its designee. Should the designated work site monitor suspect at any time during
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1 the probationary period that respondent has abused alcohol or drugs, he or she shall notify the
2 board immediately.

3 In the event of suspected abuse, the monitor shall make at least oral notification within one
4 (1) business day of the occurrence, and shall be followed by written notification within two (2)
5 business days of the occurrence. If, for any reason, including change of employment, respondent
6 is no longer able to be monitored by the approved work site monitor, within ten (10) days
7 respondent shall designate a new work site monitor for approval by the board or its designee.
8 Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure
9 monthly reports are submitted to the board by the monitor, shall be considered a violation of
10 probation.

11 Within thirty (30) days of being approved by the board or its designee, the work site
12 monitor shall sign an affirmation that he or she has reviewed the terms and conditions of
13 respondent's disciplinary order and agrees to monitor respondent. The work site monitor shall at
14 least:

- 15 1) Have regular face-to-face contact with respondent in the work environment, at least
16 once per week or with greater frequency if required by the board or its designee;
- 17 2) Interview other staff in the office regarding respondent's behavior, if applicable; and
- 18 3) Review respondent's work attendance.

19 The written reports submitted to the board or its designee by the work site monitor shall
20 include at least the following information: respondent's name and license number; the monitor's
21 name, license number (if applicable) and work site location; the date(s) the monitor had face-to-
22 face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on
23 any changes in respondent's behavior or personal habits; notes on any indicators that may lead to
24 substance abuse; and the work site monitor's signature.

25 Respondent shall complete the required consent forms and sign an agreement with the work
26 site monitor and the board to allow the board to communicate with the work site monitor.

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21. **No Ownership or Management of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

ACCEPTANCE

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

DATED: _____ ERICK A. HERNANDEZ
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____ Respectfully submitted,
ROB BONTA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General

VINODHINI RAMAGOPAL
Deputy Attorney General
Attorneys for Complainant

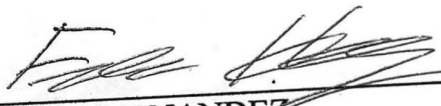
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DATED: 7-13-23


ERICK A. HERNANDEZ
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General

VINODHINI RAMAGOPAL
Deputy Attorney General
Attorneys for Complainant

21. **No Ownership or Management of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

ACCEPTANCE

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

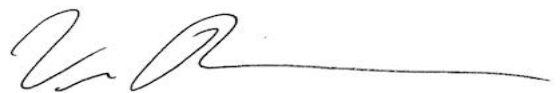
DATED: _____ ERICK A. HERNANDEZ
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATE: July 13, 2023 _____

Respectfully submitted,
ROB BONTA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General



VINODHINI RAMAGOPAL
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 7479

1 ROB BONTA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 VINODHINI RAMAGOPAL
Deputy Attorney General
4 State Bar No. 240534
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5 Los Angeles, CA 90013
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6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation:

13 **ERICK A. HERNANDEZ**
14 **4816 Harbor Ct.**
Palmdale, CA 93552
15 **Pharmacy Technician Registration No. TCH**
102440

16 Respondent.
17

Case No. 7479

OAH No. 2023050312

ACCUSATION

18
19 **PARTIES**

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

22 2. On or about May 20, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 102440 to Erick A. Hernandez (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 April 30, 2024, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4011 of the Code states:

6 The board shall administer and enforce this chapter and the Uniform Controlled Substances
7 Act (Division 10 (commencing with Section 11000) of the Health and Safety Code).

8 5. Section 4300 of the Code states in pertinent part:

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

10 ***

11 (e) The proceedings under this article shall be conducted in accordance with
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,
13 and the board shall have all the powers granted therein. The action shall be final, except that the
14 propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of
15 the Code of Civil Procedure.

16 6. Section 4300.1 of the Code states:

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

22 **STATUTORY PROVISIONS**

23 7. Section 4301 of the Code states in relevant part:

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

27 ***

28 ///

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

4 ***

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

10 ***

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

13 ***

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

18 8. Section 4327 of the Code states:

19 Any person who, while on duty, sells, dispenses or compounds any drug while under the
20 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

21 **COST RECOVERY**

22 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

26 **FACTUAL ALLEGATIONS**

27 10. On December 22, 2022, while Respondent was employed as a registered pharmacy
28 technician at Walgreens located at 19266 Soledad Canyon, Santa Clarita, CA 91351, Respondent

1 came to work under the influence of alcohol. Respondent was not scheduled to work on
2 December 22, 2022, but the pharmacy was short-staffed and Respondent was asked that day to
3 come in and work.

4 11. Respondent agreed to come in and work the 2p.m. – 8p.m. shift and immediately
5 began working at the drive-thru window. Approximately thirty minutes into Respondent’s shift,
6 E. G., Lead Technician/Operations Manager at the store, noticed that Respondent was not acting
7 his usual self; he looked flushed (red) and was loud. E.G. noticed Respondent was slurring his
8 words and kept holding onto the counter for support. E.G. was informed by another technician
9 that when she took over the drive-thru at the pharmacy, the phone had an alcohol scent.

10 12. E.G. reached out for guidance to the store manager, S.N., regarding her suspicion that
11 Respondent was under the influence. E.G. and S.N. met with Respondent, who then admitted he
12 had been drinking, but had agreed to cover the shift because he thought he was okay. A mobile
13 technician was called to conduct a breathalyzer and urine test on Respondent.

14 13. The breathalyzer test yielded the following results: December 22, 2022 at 6:06p.m.:
15 0.181% and December 22, 2022 at 6:22p.m.: 0.183%. Respondent was immediately asked to
16 leave by store management and placed on suspension until further notice. S.N. called an Uber for
17 Respondent so he could get home safely.

18 14. In his interview the Board’s inspector on or about January 27, 2023, Respondent
19 admitted to consuming a few beers and “hard liquor” prior to arriving at work on December 22,
20 2022. Respondent stated that he felt “buzzed” but not impaired and thought he was okay to begin
21 his shift.

22 **FIRST CAUSE FOR DISCIPLINE**

23 (Unprofessional Conduct: Dishonesty and/or Moral Turpitude)

24 15. Respondent is subject to disciplinary action pursuant to Code section 4301,
25 subdivisions (f), (j) and/or (o), for unprofessional conduct, which includes, but is not limited to
26 acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. The allegations of
27 paragraphs 10 through 14 above are realleged as though fully set forth.

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct: Danger to the Public)

3 16. Respondent is subject to disciplinary action pursuant to Code section 4301,
4 subdivisions (h), (j) and/or (o), for unprofessional conduct and being a danger to the public, in
5 that on or about December 22, 2022, Respondent worked at Walgreens and provided services to
6 customers, while intoxicated. The allegations of paragraphs 10 through 14 above are realleged as
7 though fully set forth.

8 **THIRD CAUSE FOR DISCIPLINE**

9 (Sale, Dispensing or Compounding Drugs While Under the Influence of Drugs or Alcohol)

10 17. Respondent is subject to disciplinary action pursuant to Code sections 4327 and 4301,
11 subdivisions (j) and/or (o), for violating Pharmacy Law, in that on or about December 22, 2022,
12 Respondent worked at Walgreens and provided services to customers, including providing
13 services at the drive-thru window, while intoxicated. The allegations of paragraphs 10 through 14
14 above are realleged as though fully set forth.

15 **PRAYER**

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

18 1. Revoking or suspending Pharmacy Technician Registration Number TCH 102440,
19 issued to Erick A. Hernandez;

20 2. Ordering Erick A. Hernandez to pay the Board of Pharmacy the reasonable costs of
21 the investigation and enforcement of this case, pursuant to Business and Professions Code section
22 125.3; and,

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

DATED: 6/8/2023

Sodergren,
Anne@DCA
ANNE SODÉRGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

Digitally signed by
Sodergren, Anne@DCA
Date: 2023.06.08 11:55:00
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