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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3246

13 **JACQUELINE M. HALL**  
443 Rian Noelle Court  
14 Bakersfield, CA 93308

**FIRST AMENDED**  
**ACCUSATION**

15 Pharmacy Technician Registration No. TCH 63581

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about June 29, 2005, the Board of Pharmacy (Board) issued Pharmacy  
24 Technician Registration No. TCH 63581 to Jacqueline M. Hall (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on September 30, 2012, unless renewed.

27 **JURISDICTION**

28 3. This First Amended Accusation is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code unless otherwise  
2 indicated.

3 **STATUTORY PROVISIONS**

4 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license  
5 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
6 within which the license may be renewed, restored, reissued or reinstated.

7 5. Section 490 provides that a board may suspend or revoke a license on the ground that  
8 the licensee has been convicted of a crime substantially related to the qualifications, functions, or  
9 duties of the business or profession for which the license was issued.

10 6. Section 4060 states:

11 "No person shall possess any controlled substance, except that furnished to a person upon  
12 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
13 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
14 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
15 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
16 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
17 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
18 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
19 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
20 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
21 labeled with the name and address of the supplier or producer.

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

25 7. Section 4300 provides, in pertinent part, that every license issued by the Board is  
26 subject to discipline, including suspension or revocation.

27 8. Section 4301 states:

28 "The board shall take action against any holder of a license who is guilty of unprofessional

1 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

2 Unprofessional conduct shall include, but is not limited to, any of the following:

3 . . . .

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

7 . . . .

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

13 . . . .

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

16 . . . .

17 “(l) The conviction of a crime substantially related to the qualifications, functions, and  
18 duties of a licensee under this chapter. . . .

19 “(p) Actions or conduct that would have warranted denial of a license.”

20 9. Health and Safety Code section 11550, subdivision (a) states, in pertinent part:

21 “No person shall use, or be under the influence of any controlled substance which is (1)  
22 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of section 11054,  
23 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of section 11054, specified  
24 in subdivision (b) or (c) of section 11055, or specified in paragraph (1) or (2) of subdivision (d) or  
25 in paragraph (3) of subdivision (e) of section 11055, or (2) a narcotic drug classified in Schedule  
26 III, IV, or V, except when administered by or under the direction of a person licensed by the state  
27 to dispense, prescribe, or administer controlled substances.”

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1 **REGULATORY PROVISIONS**

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

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

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(The Use of a Controlled Substance)**

16 12. Respondent is subject to disciplinary action under section 4301, subdivision (h) and  
17 (j) for violating Health and Safety Code section 11550, subdivision (a), in that Respondent  
18 admitted to using a controlled substance to an extent or in a manner dangerous or injurious to  
19 herself and the public. On July 25, 2008, the Board received a letter dated July 2, 2008, from  
20 Respondent’s employer, Costco Wholesale in the city of Bakersfield, informing the Board that  
21 Respondent had admitted to having a drug addiction on April 2, 2008. The letter further stated  
22 that Respondent had submitted to a drug rehabilitation program and was released on June 2, 2008.  
23 Respondent and Respondent’s employer failed to notify the Board within 30 days of the  
24 discovery of an impaired licensee as required by law.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Possession of Controlled Substances Without a Valid Prescription)**

27 13. Respondent is subject to disciplinary action under section 4301, subdivision (f) and  
28 4060, in that on or about April 2, 2008, Respondent admitted to having a drug addiction while

1 being a licensed Pharmacy Technician. Complainant now refers to and incorporates all the  
2 allegations contained in paragraph 11, as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Conduct that Would have Warranted Denial of a License)**

5 14. Respondent is subject to disciplinary action under section 4301, subdivision (p), in  
6 that on or about April 2, 2008, Respondent admitted to having a drug addiction while being a  
7 licensed Pharmacy Technician. Complainant now refers to and incorporates all the allegations  
8 contained in paragraph 11, as though set forth fully.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Conviction of Substantially Related Crime)**

11 15. Respondent is subject to disciplinary action under sections 490 and 4301,  
12 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that  
13 on or about November 5, 2010, Respondent was convicted of a crime substantially related to the  
14 qualifications, functions or duties of a registered pharmacy technician which to a substantial  
15 degree evidences her present or potential unfitness to perform the functions authorized by her  
16 registration in a manner consistent with the public health, safety, or welfare. The circumstances  
17 are as follows:

18 a. On or about November 5, 2010, after pleading nolo contendere, Respondent was  
19 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving while  
20 under the influence of alcohol] in the criminal proceeding entitled *The People of the State of*  
21 *California v. Jacqueline Marie Hall* (Super. Ct. Kern County, 2010, No. BM778111A). The  
22 Court sentenced Respondent to two (2) days in jail, placed her on three (3) years of probation, and  
23 ordered her to complete a 3-month alcohol education program.

24 b. The circumstances underlying the conviction are that on or about October 14, 2010,  
25 Respondent drove a vehicle while having a tested blood alcohol of 0.15/0.15%.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

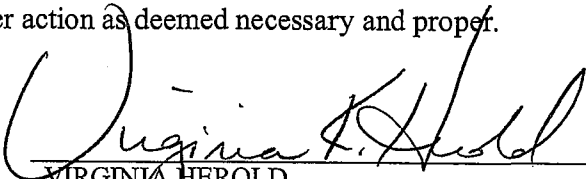
3 16. Respondent is subject to disciplinary action under section 4301, in that on or about  
4 October 14, 2010 and on or about November 5, 2010, Respondent committed acts of  
5 unprofessional conduct. Complainant refers to and by this reference incorporates the allegations  
6 set forth above in paragraph 15, subparagraphs a and b, inclusive, as though set forth fully.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration No. TCH 63581, issued  
11 to Respondent;
- 12 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
13 enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 14 3. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 5/23/11

  
17 VIRGINIA HEROLD  
18 Executive Officer  
19 Board of Pharmacy  
20 Department of Consumer Affairs  
21 State of California  
22 Complainant

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