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

11 In the Matter of the Accusation Against:

Case No. 3581

12 **DEBORAH CONNER**
13 **10800 Woodside Ave #88**
Santee, CA 92071

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **23357**

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about July 28, 1997, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 23357 to Deborah Conner (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on June 30, 2011, unless renewed.

25 **JURISDICTION**

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

1 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
2 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
3 disciplinary action during the period within which the license may be renewed, restored, reissued
4 or reinstated.

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

7 STATUTORY PROVISIONS

8 6. Section 4301 of the Code states:

9 The board shall take action against any holder of a license who is guilty of
10 unprofessional conduct or whose license has been procured by fraud or
11 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
is not limited to, any of the following:

12 ...
13 (h) The administering to oneself, of any controlled substance, or the use of
14 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
15 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.

16 ...
17 (l) The conviction of a crime substantially related to the qualifications,
18 functions, and duties of a licensee under this chapter. The record of conviction of
19 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
20 States Code regulating controlled substances or of a violation of the statutes of this
21 state regulating controlled substances or dangerous drugs shall be conclusive
22 evidence of unprofessional conduct. In all other cases, the record of conviction
23 shall be conclusive evidence only of the fact that the conviction occurred. The
24 board may inquire into the circumstances surrounding the commission of the
25 crime, in order to fix the degree of discipline or, in the case of a conviction not
26 involving controlled substances or dangerous drugs, to determine if the conviction
27 is of an offense substantially related to the qualifications, functions, and duties of a
28 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.

1 7. Section 490 of the Code of the Code provides, in pertinent part, that a board may
2 suspend or revoke a license on the ground that the licensee has been convicted of a crime
3 substantially related to the qualifications, functions, or duties of the business or profession for
4 which the license was issued.

5 8. Section 493 of the Code states:

6 Notwithstanding any other provision of law, in a proceeding conducted by a
7 board within the department pursuant to law to deny an application for a license or
8 to suspend or revoke a license or otherwise take disciplinary action against a
9 person who holds a license, upon the ground that the applicant or the licensee has
10 been convicted of a crime substantially related to the qualifications, functions, and
11 duties of the licensee in question, the record of conviction of the crime shall be
12 conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of
the crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
question.

13 As used in this section, "license" includes "certificate," "permit,"
14 "authority," and "registration."

15 9. Section 482 of the Code states:

16 Each board under the provisions of this code shall develop criteria to
17 evaluate the rehabilitation of a person when:

- 18 (a) Considering the denial of a license by the board under Section 480; or
19 (b) Considering suspension or revocation of a license under Section 490.

20 Each board shall take into account all competent evidence of rehabilitation
21 furnished by the applicant or licensee.

22 REGULATORY PROVISIONS

23 10. California Code of Regulations, title 16, section 1769, states:

24

25 (b) When considering the suspension or revocation of a facility or a personal
26 license on the ground that the licensee or the registrant has been convicted of a
27 crime, the board, in evaluating the rehabilitation of such person and his present
eligibility for a license will consider the following criteria:

- 28 (1) Nature and severity of the act(s) or offense(s).

1 (2) Total criminal record.

2 (3) The time that has elapsed since commission of the act(s) or offense(s).

3 (4) Whether the licensee has complied with all terms of parole, probation,
4 restitution or any other sanctions lawfully imposed against the licensee.

5 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

12 **COST RECOVERY**

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

17 **FIRST CAUSE FOR DISCIPLINE**

18 (October 17, 2007 Criminal Conviction for DUI on September 26, 2007)

19 13. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
20 (1) of the Code in that she was convicted of a crime that is substantially related to the
21 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

22 a. On or about October 17, 2007, in a criminal proceeding entitled *People of the State of*
23 *California v. Deborah Conner*, in San Diego County Superior Court, case no. C274815,
24 Respondent was convicted on her plea of guilty for violating Vehicle Code section 23152 (b),
25 driving under the influence of alcohol with a special allegation of blood alcohol level of .15 or
26 more under Vehicle Code 23578.

1 b. As a result of the conviction, on or about October 17, 2007, Respondent was
2 sentenced to five years of conditional probation, required to enroll in and complete a three month
3 first offender alcohol program, serve 217 days in jail and to pay a fine of \$1,834.00.

4 c. The facts that led to the conviction were that on or about September 26, 2007 in the
5 afternoon, Respondent was driving near the intersection of Town Center Parkway and Mission
6 Gorge Road in Santee, California, when she hit two trees. She admitted to the arresting officer
7 that she drank six shots of alcohol before driving to a craft store to paint. When Respondent was
8 transported to jail, a breath test was administered, with results of .20 and .19—over twice the
9 legal limit.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (October 17, 2007 Criminal Conviction for DUI on October 12, 2007)

12 14. Respondent is subject to disciplinary action under sections 490 and 4031, subdivision
13 (I) of the Code in that she was convicted of a crime that is substantially related to the
14 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

15 a. On or about October 17, 2007, in a criminal proceeding entitled *People of the*
16 *State of California v. Deborah Conner*, in San Diego County Superior Court, case no. C275132,
17 Respondent was convicted on her plea of guilty for violating Vehicle Code section 23152(b),
18 driving under the influence of alcohol with a special allegation of blood alcohol level of .15 or
19 more under Vehicle Code section 23578.

20 b. As a result of the conviction, on or about October 17, 2007, Respondent was
21 sentenced to five years of conditional probation, required to enroll in and complete a multiple
22 conviction alcohol program, complete MADD victims impact panel, attend six months of
23 rehabilitation, serve one year in jail and to pay a fine of \$2,276.00.

24 c. The facts that led to the conviction were that on or about October 12, 2007
25 (approximately three weeks after her DUI arrest on September 26, 2007), Respondent caused a
26 disturbance and began using foul language in front of children at a child's birthday party. She
27 appeared to be extremely intoxicated and fell down at the child's party but insisted on driving
28 home. When she left the party, the police were called. The police arrested Respondent at her

1 home for driving under the influence. When Respondent was transported to jail, a breath test was
2 administered with results of .18 and .19—over twice the legal limit.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (April 28, 2009 Criminal Conviction for DUI on March 13, 2009)

5 15. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision
6 (I) of the Code in that she was convicted of a crime that is substantially related to the
7 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

8 a. On or about April 28, 2009, in a criminal proceeding entitled of *People of the State*
9 *California v. Deborah Conner*, in San Diego County Superior Court, case number C290030,
10 Respondent was convicted on her plea of guilty for violating Vehicle Code 23152(b), driving
11 under the influence of alcohol with a special allegation of blood alcohol level of .15 or more
12 under Vehicle Code 23548 and an allegation of DUI convictions within ten years under Vehicle
13 Code 23626 and Vehicle Code 23546.

14 b. As a result of the conviction, on or about April 28, 2009, Respondent was sentenced
15 to five years conditional probation, required to enroll in and complete a Multiple Conviction
16 Alcohol Program, complete MADD Victim Impact Panel, serve 180 days in jail, and pay a fine of
17 \$2,675.00.

18 c. The facts that led to the conviction were that on or about March 13, 2009, while on
19 probation for the convictions set forth in paragraphs 13 and 14 above, Respondent was driving
20 under the influence of alcohol, in the afternoon around a mobile home park where there were
21 children playing and other pedestrians present. The arresting police officer opined that “the
22 potential for injury to one of these pedestrians, because [Respondent] chose to drive under the
23 influence was great.” A preliminary alcohol screening was administered at the scene with results
24 of .200 and .195—over twice the legal limit.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Use of Alcohol in Dangerous Manner)**

3 16. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
4 Respondent used alcohol in a dangerous manner by driving under the influence on multiple
5 occasions as described in paragraphs 13-15 above which are incorporated by reference.

6 **DISCIPLINE CONSIDERATIONS**

7 17. To determine the degree of discipline, if any, to be imposed on Respondent,
8 Complainant alleges that in or about 1996, in a prior criminal proceeding, Respondent was
9 convicted for driving under the influence and was sentenced to 5 years probation, to serve 2 days
10 in jail, to complete a First Offender Program, to complete 232 hours of volunteer work, and to
11 pay a fine of \$1,630.00.

12 **PRAYER**

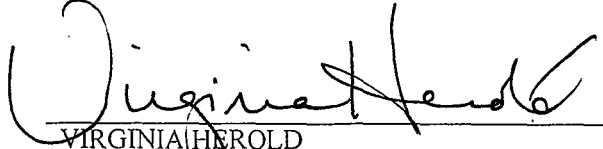
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Pharmacy issue a decision:

15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 23357,
16 issued to Deborah Conner.

17 2. Ordering Deborah Conner to pay the Board of Pharmacy the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;

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

21
22 DATED: 3/22/10


23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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