1 2 3 4 5 6 7 8 9 10	KAMALA D. HARRIS Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General LESLIE A. WALDEN Deputy Attorney General State Bar No. 196882 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-3465 Facsimile: (213) 897-2804 Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 3696
12	PABLO ESPINOZA
13	1211 Schick Ave.Los Angeles, CA 90063ACCUSATION
14	Pharmacy Technician License No. TCH 71053
15	Respondent.
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18	Complainant alleges:
19	PARTIES
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
22	2. On or about August 9, 2006, the Board issued Pharmacy Technician License No.
23	TCH 71053 to Pablo Espinoza (Respondent). The Pharmacy Technician Registration was in full
24	force and effect at all times relevant to the charges brought herein and will expire on July 31,
25	2012, unless renewed.
26	JURISDICTION
27	3. This Accusation is brought before the Board under the authority of the following
28	laws. All section references are to the Business and Professions Code unless otherwise indicated.
	1
	Accusation

STATUTORY PROVISIONS 1 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or 2 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary 3 action during the period within which the license may be renewed, restored, reissued or 4 reinstated. 5 5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license 6 on the ground that the licensee has been convicted of a crime substantially related to the 7 qualifications, functions, or duties of the business or profession for which the license was issued... 8 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or 9 revoked." 10 7. Section 4301 states, in pertinent part: 11 "The board shall take action against any holder of a license who is guilty of unprofessional 12 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 13 Unprofessional conduct shall include, but is not limited to, any of the following: 14 15 The administering to oneself, of any controlled substance, or the use of any dangerous "(h) 16 17 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to 18 oneself, to a person holding a license under this chapter, or to any other person or to the public, or 19 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. 20 21 "(k) The conviction of more than one misdemeanor or any felony involving the use, 22 23 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances. 24 25 "(1) The conviction of a crime substantially related to the qualifications, functions, and 26 duties of a licensee under this chapter...." 27 /// 28 $\parallel \parallel$ 2

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1	REGULATORY PROVISIONS
2	8. 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	9. 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	(Conviction of Substantially Related Crime)
16	10. Respondent is subject to disciplinary action under sections 490, 4300, 4301,
17	subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
18	grounds of unprofessional conduct, in that on or about January 27, 2010, Respondent was
19	convicted of a crime substantially related to the qualifications, functions or duties of a registered
20	pharmacy technician, as follows:
21	a. On or about January 27, 2010, after pleading nolo contendere and admitting to
22	violating Vehicle Code section 23578 [refusal to take chemical test], Respondent was convicted
23	of one felony count of violating Vehicle Code section 23153(a) [driving under the influence and
24	causing bodily injury to another] in the criminal proceeding entitled The People of the State of
25	California v. Pablo Espinoza (Super. Ct. Los Angeles County, 2009, No. KA087786). The
26	Court sentenced Respondent to 365 days in jail, placed him on five (5) years probation, ordered
27	him to complete a six (6) month alcohol program, ordered him to complete the Hospital and
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Morgue Program, ordered him to complete the Mothers Against Drug Drivers (MADD) program, and ordered him to submit electronic monitoring.

b. The circumstances underlying the conviction are that on or about June 13, 2009,
Respondent drove his vehicle while intoxicated with a 0.20% blood alcohol and rear ended
another vehicle causing physical injuries to three passengers. Further, Respondent fled the scene
after the vehicle collision.

SECOND CAUSE FOR DISCIPLINE

(Alcohol Related Conviction)

9 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
10 subdivision (k), on the grounds of unprofessional conduct, in that on or about January 27, 2010,
11 Respondent sustained a felony conviction involving the use, consumption, or self-administration
12 of alcoholic beverages. Complainant refers to and by this reference incorporates the allegations
13 set forth above in paragraph 10, subparagraphs a and b, inclusive, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

16 12. Respondent is subject to disciplinary action under sections 4300 and 4301, 17 subdivision (h), on the grounds of unprofessional conduct, in that Respondent administered to 18 himself and / or used alcoholic beverages to the extent or in a manner as to be dangerous or 19 injurious to himself or others. Complainant refers to and by this reference incorporates the 20 allegations set forth above in paragraphs 10 and 11, inclusive, as though set forth fully.

<u>PRAYER</u>

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

Revoking or suspending Pharmacy Technician License No. TCH 71053, issued to
 Pablo Espinoza;

26 2. Ordering Pablo Espinoza to pay the Board of Pharmacy the reasonable costs of the
27 investigation and enforcement of this case, pursuant to section 125.3; and

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Taking such other and further action as deemed necessary and proper. 3. 10/28/11 DATED: VIRGINIA HERC Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant LA2010502345 7/18/2011dmm 60653362.doc Accusation