1	EDMUND G. Brown Jr.
2	Attorney General of California LINDA K. SCHNEIDER
3	Supervising Deputy Attorney General NICOLE R. COOK
4	Deputy Attorney General State Bar No. 263607
5	110 West "A" Street, Suite 1100 San Diego, CA 92101
6	P.O. Box 85266 San Diego, CA 92186-5266
7	Telephone: (619) 645-2143 Facsimile: (619) 645-2061
8	Attorneys for Complainant
9	BEFORE THE BOARD OF PHARMACY
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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12	In the Matter of the Accusation Against: Case No. 3721
13	LISA MARIE DOROSKY
14	Seal Beach, CA 90740 ACCUSATION
15	Pharmacy Technician Registration No. TCH
16	Respondent.
17	respondent.
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20	Complainant alleges:
21	<u>PARTIES</u>
22	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
24	2. On or about June 13, 2005, the Board of Pharmacy issued Original Pharmacy
25	Technician Registration Number TCH 63119 to Lisa Marie Dorosky (Respondent). The Original
26	Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
27	brought herein and will expire on March 31, 2011, unless renewed.
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Accusation

JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 4300, subdivision (a) of the Code states "Every license issued may be suspended or revoked."

STATUTORY PROVISIONS

6. Section 482 of the Code states:

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

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

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

- 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
 - 8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be 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.

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

9. Section 4301 of the Code states:

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

. . . .

- (g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.
- (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.

. . . .

- (k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.
- (1) 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

1	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
2	the verdict of guilty, or dismissing the accusation, information, or indictment.
3	DECLIL ATODY DDOVICIONS
4	<u>REGULATORY PROVISIONS</u>
5	10. California Code of Regulations, title 16, section 1770, states:
6	For the purpose of denial, suspension, or revocation of a personal or facility
7	license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to
8	the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to
9	perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.
10	consistent with the public hearth, safety, of worldie.
11	11. California Code of Regulations, title 16, section 1769, states:
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13	(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been
14	convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:
15	(1) Nature and severity of the act(s) or offense(s).
16	(2) Total criminal record.
17	(3) The time that has elapsed since commission of the act(s) or offense(s).
18 19	(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
20	(5) Evidence, if any, of rehabilitation submitted by the licensee.
21	COST RECOVERY
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23	12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
24	the administrative law judge to direct a licentiate found to have committed a violation or
25	violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
26	and enforcement of the case.
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FIRST CAUSE FOR DISCIPLINE

(February 20, 2002 Conviction for DUI on October 25, 2001)

- 13. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the Code in that she was convicted of crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:
- a. On or about February 20, 2002, in a criminal proceeding entitled *The People of the State of California v. Lisa Marie Dorosky*, in Orange County Superior Court case number CH01WM10030, Respondent was convicted on her plea of guilty for violation of Vehicle Code section 23152(A), driving under the influence of alcohol, Vehicle Code section 23152(B), driving with a blood alcohol content of .08 or more, and Vehicle Code section 14601.1, driving on a suspended license. On her plea of guilty, Respondent admitted that she "willfully and unlawfully drove a vehicle while under the influence of alcohol with a blood alcohol level above a .20." Respondent's blood alcohol level was .31 percent by weight.
- b. As a result of her conviction, Respondent was placed on summary probation for a period of 3 years. Respondent was ordered to obey all laws, complete 160 hours of community service, pay \$1,864 in fines and fees, attend a MADD panel meeting, and appear at the Alcohol Liaison Office.

SECOND CAUSE FOR DISCIPLINE

(July 23, 2009 Conviction for DUI on January 26, 2009)

- 14. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the Code in that she was convicted of crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:
- a. On or about July 23, 2009, in a criminal proceeding entitled *The People of the State of California v. Lisa Marie Dorosky* in Orange County Superior Court case number 09WM01738 Respondent was convicted on her plea of guilty for violation of Vehicle Code section 23152(a), driving under the influence of alcohol.
- b. The circumstances which led to the conviction are that on or about January 26, 2009, an officer from the Seal Beach Police Department responded to a dispatch reporting a

possible drunk driver. The officer located the vehicle exiting the drive-through at McDonalds on PCH and Marina Drive. The vehicle drove very slowly through the parking lot and made a wide turn onto Marina. The officer observed the vehicle drifting towards the left curb, nearly hitting it. After the officer observed the vehicle driving consistently at a 10 mile-per-hour pace in a 25 mile-per-hour zone, the officer initiated a traffic stop and Respondent was identified as the driver of the vehicle. When the officer contacted Respondent, he smelled an odor of alcohol on her breath, her eyes were bloodshot and watery, and her speech was slow and slurred. Respondent exited and held onto her vehicle for support. Respondent attempted to perform the field sobriety tests, stumbled and said "I can't do this." Respondent refused to complete the tests and she was arrested for driving under the influence of alcohol. A blood sample was obtained from Respondent at the Seal Beach Police Department. Respondent's blood alcohol level was .30 percent by weight.

c. As a result of her conviction, on or about July 23, 2009, Respondent was sentenced 3 years summary probation, ordered to attend and complete the Multiple Offender Alcohol Program, required to pay all fines, fees and restitution, and sentenced to 60 days in custody.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Use of Alcohol in a Manner Dangerous to Self or Others)

15. Respondent is subject to disciplinary action under section 4301(h) of the Code for unprofessional conduct in that Respondent used alcohol to an extent which was dangerous to herself or others, as is set forth above in paragraphs 13 through 14, which are incorporated herein by reference as though fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Two Misdemeanor Convictions Involving Use Alcohol)

16. Respondent is subject to disciplinary action under section 4301(k) of the Code for unprofessional conduct in that Respondent was convicted of more than one misdemeanor involving the use or consumption of alcohol, as is set forth above in paragraphs 13 and 14, which are incorporated herein by reference as though fully set forth herein.

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FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Falsely Stating Facts on Application for Licensure)

17. Respondent is subject to disciplinary action under section 4301(g) of the Code for unprofessional conduct in that Respondent falsely represented facts on her application for licensure as a pharmacy technician when she failed to disclose her February 20, 2002 conviction for driving under the influence of alcohol, and instead represented that she did not have any convictions.

PRAYER

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:

- 1. Revoking or suspending Pharmacy Technician Registration Number TCH 63119, issued to Lisa Marie Dorosky
- 2. Ordering Lisa Marie Dorosky to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: 7/15/10

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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