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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. 3776

13 **SAMANTHA M. RODRIGUEZ**
14 **828 S. Herbert Avenue**
Los Angeles, CA 90023

A C C U S A T I O N

15 **Original Pharmacy Technician Registration**
16 **Number TCH 70934**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 9, 2006, the Board of Pharmacy (Board) issued Original
24 Pharmacy Technician Registration Number TCH 70934 to Samantha M. Rodriguez (Respondent).
25 The license was in full force and effect at all times relevant to the charges brought herein and will
26 expire on December 31, 2011, unless renewed.

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1 7. Section 4301 states:

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

5

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

11 "(l) The conviction of a crime substantially related to the qualifications, functions, and
12 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
14 substances or of a violation of the statutes of this state regulating controlled substances or
15 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
16 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
17 The board may inquire into the circumstances surrounding the commission of the crime, in order
18 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
19 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
20 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
21 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
22 of this provision. The board may take action when the time for appeal has elapsed, or the
23 judgment of conviction has been affirmed on appeal or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
25 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
26 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
27 indictment.

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Criminal Convictions)**

16 10. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
17 conjunction with California Code or Regulations, title 16, section 1770, in that Respondent was
18 convicted of crimes that are substantially related to the qualifications, functions, or duties of a
19 pharmacy technician, as follows:

20 a. On or about April 15, 2010, after pleading nolo contendere, Respondent was convicted
21 of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while having a
22 0.08% or higher blood alcohol], in the criminal proceeding entitled *The People of the State of*
23 *California v. Samantha Rodriguez* (Super. Ct. Los Angeles County, 2010, No. 0EA02505).

24 Respondent was sentenced to 120 days in custody, and placed on probation for a period of
25 36 months with certain terms and conditions. She was also ordered to complete an
26 18-month second offender's drug and alcohol education program, and pay restitution. The
27 circumstances surrounding the conviction are that on or about October 18, 2009, California
28 Highway Patrol officers were investigating a traffic collision. Upon speaking to Respondent,

1 officers detected a strong odor of alcohol from her breath. Respondent performed a series of
2 field sobriety tests unsuccessfully. Consequently, Respondent was arrested for driving a motor
3 vehicle while under the influence of an alcoholic beverage.

4 b. On or about February 9, 2007, after pleading nolo contendere, Respondent was
5 convicted of two misdemeanor counts involving Vehicle Code section 23152(b) [driving while
6 having a 0.08% or higher blood alcohol] and Vehicle Code section 14601.1(a) [driving with a
7 suspended license], in the criminal proceeding entitled *The People of the State of California v.*
8 *Samantha Maria Rodriguez* (Super. Ct. Los Angeles County, 2007, No. 6FF03639-01).
9 Respondent was sentenced to 20 days in custody, and placed on probation for a period 60 months
10 with certain terms and condition. She was also ordered to complete an 18-month drug and
11 alcohol education program, and pay restitution.

12 The circumstances surrounding the convictions are that on or about November 23, 2006,
13 Huntington Park Police officers stopped Respondent for weaving within the traffic lane. After
14 speaking to Respondent, officers noticed signs and symptoms of alcoholic intoxication including
15 a strong odor of alcohol on her breath, red and watery eyes, and slurred speech. Officers also
16 observed two bottles of Corona beer that were 3/4 empty located on the center console area of the
17 vehicle. A driver's license check revealed that Respondent's California license was suspended
18 and listed outstanding warrants, one of which is a DUI warrant. Respondent performed several
19 field sobriety tests unsuccessfully. Consequently, she was arrested for driving a vehicle while
20 under the influence of alcohol. The result of Respondent's chemical breath test was 0.23 % blood
21 alcohol level.

22 c. On or about January 5, 2007, after pleading nolo contendere, Respondent was
23 convicted of one misdemeanor count of violating Vehicle Code section 23152(b) [driving while
24 having a 0.08% or higher blood alcohol], in the criminal proceeding entitled *The People of the*
25 *State of California v. Samantha Marie Rodriguez* (Super. Ct. Los Angeles County, 2007,
26 No. 6EA10426). Respondent was placed on probation for a period of 36 months with certain
27 terms and conditions. She was also ordered to complete a 3-month first offender's drug and
28 alcohol education program, and pay restitution.

1 d. On or about January 24, 2006, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Vehicle Code section 12500 [driving without a
3 license], in the criminal proceeding entitled *The People of the State of California v. Samantha*
4 *Maria Rodriguez* (Super. Ct. Los Angeles County, 2006, No. 5EL07883). Respondent was
5 ordered to pay a fine to the court.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Use of Alcohol Beverages to the Extent to be Dangerous to Oneself)**

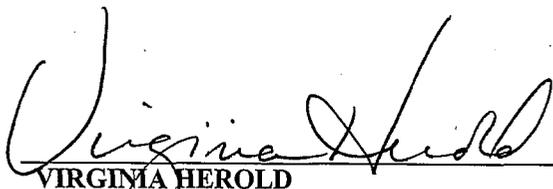
8 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
9 that Respondent used alcohol in a manner dangerous to herself and others on three separate
10 occasions. Complainant refers to and incorporates all the allegations contained in paragraph 10,
11 subparagraphs (a), (b), and (c), inclusive, as though set forth fully.

12 **PRAYER**

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

- 15 1. Revoking or suspending Original Pharmacy Technician Registration Number TCH
16 70934, issued to Respondent Samantha M. Rodriguez;
- 17 2. Ordering Respondent Samantha M. Rodriguez to pay the Board of Pharmacy the
18 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
19 Professions Code section 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21
- 22

23 DATED: 4/27/11

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

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