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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:
12 **MARY KEARNS-COCHRAN**
13 **1185 Belmont Avenue**
Vallejo, CA 94591
14 **Pharmacy Technician License No. 45573**
15 Respondent.

Case No. 4263

A C C U S A T I O N

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.
- 22 2. On or about April 7, 2003, the Board of Pharmacy issued Pharmacy Technician
23 License Number 45573 to Mary Kearns-Cochran (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought in this Accusation
25 and will expire on January 31, 2013, unless renewed.

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6. Code section 4301 states, in part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct Unprofessional conduct shall include, but is not limited to, any of the following:

...

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

...

(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.

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . . [T]he 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 . . . 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.

REGULATORY PROVISIONS

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

For the purpose of denial, suspension, or revocation of a personal or facility 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 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 perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Substantially Related Conviction)**

3 8. Respondent's license is subject to disciplinary action under Code section 4301,
4 subdivision (l), as defined by California Code of Regulations, title 16, section 1770, in that she
5 was convicted of a crime substantially related to the qualifications, functions, and duties of a
6 pharmacist. The circumstances are as follows:

7 9. On or about November 22, 2011, in a criminal matter entitled *The People of the State*
8 *of California v. Mary Kearns-Cochran*, Solano County Superior Court Case No. VCR211615,
9 Respondent was convicted by plea of no contest for violating Vehicle Code section 14601.1,
10 subdivision (a), (Driving with a Suspended License), a misdemeanor. The court sentenced
11 Respondent to serve three days in jail and three years of court probation, and ordered her to
12 comply with other terms and conditions.

13 10. The factual circumstances underlying the 2011 conviction are that on or about July 3,
14 2011, the Solano County Sheriff's Department performed a routine traffic stop on Respondent's
15 car for a missing brake light. Respondent admitted that her driver's license was suspended due to
16 a prior driving under the influence conviction. Respondent was on criminal probation for a
17 Vehicle Code section 23152 conviction (Driving While Intoxicated) with an order not to drive
18 unless licensed. In Respondent's car, one of the arresting officers observed an open can of beer
19 and a second, cold, unopened can of beer. Respondent's Preliminary Alcohol Screening was
20 .023% blood alcohol by volume. Respondent was arrested for violating Vehicle Code section
21 14601.2, subdivision (a), (Driving when Privilege Suspended due to Prior DUI), Penal Code
22 section 23222, subdivision (a), (Possessing an Open Container), and Penal code section 1203.2
23 (Violation of Probation).

24 11. On or about August 28, 2011, Respondent was arrested for violating Vehicle Code
25 section 14601.1, subdivision (a), and Penal Code section 1203.2. In a criminal matter entitled
26 *The People of the State of California v. Mary Kearns-Cochran*, Solano County Superior Court
27 Case No. VCR212242, Respondent was charged with violating Vehicle Code section 14601.2,
28 subdivision (a). On or about November 22, 2011, the charge was dismissed in exchange for

1 Respondent's no contest plea for violating Vehicle Code section 14601.1, subdivision (a), in Case
2 No. VCR211615, as set forth in paragraph 9 above. In assessing the sentence in Case No.
3 VCR211615, the court considered the dismissed charge in Case No. VCR212242.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Substantially Related Conviction)**

6 12. Respondent's license is subject to disciplinary action under Code section 490, in that
7 she was convicted for violating Vehicle Code section 14601.1, subdivision (a),(Driving with a
8 Suspended License). The circumstances are more particularly set forth in paragraphs 9 through
9 11, above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct: Commission of Acts of Moral Turpitude)**

12 13. Respondent's license is subject to disciplinary action under Code section 4301,
13 subdivision (f), in that she committed an acts involving moral turpitude, dishonesty, fraud, deceit,
14 or corruption. The circumstances are more particularly set forth in paragraphs 9 through 11,
15 above.

16 **DISCIPLINARY CONSIDERATIONS**

17 14. On or about September 10, 2008, in a criminal matter entitled *The People of the State*
18 *of California v. Mary Kearns-Cochran*, Siskiyou County Superior Court Case No. 07019900,
19 Respondent was convicted for violating Vehicle Code sections 23152, subdivision (b), (Driving
20 under the Influence of Alcohol) and 14601.2, misdemeanor offenses that occurred on or about
21 September 3, 2007. Respondent also admitted to a prior conviction on December 6, 2006, for
22 violating Vehicle Code sections 23152.

23 15. To determine the degree of discipline, if any, to be imposed on Respondent,
24 Complainant alleges that on or about September 27, 2010, in a prior action, the Board of
25 Pharmacy issued Citation No. CI 2008 37155 against Respondent. The underlying bases for the
26 citation were the 2008 convictions for violating Vehicle Code sections 23152 and 14601.2. The
27 circumstances of the 2008 convictions are more particularly set forth in paragraph 14, above.

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