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	8	BEFORE THE BOARD OF PHARMACY			
	9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
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	11	In the Matter of the Accusation Against:	Case No. 4263		
	12	MARY KEARNS-COCHRAN 1185 Belmont Avenue			
	13		ACCUSATION		
	14	Pharmacy Technician License No. 45573	(
	15	Respondent.			
	16		•		
	17				
	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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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 (Code) unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Code section 490 states, in part:
- (a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- (b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
- (c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.
- 5. Code section 4300 states, in part:
 - (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.
 - (4) Revoking his or her license.
- (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

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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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Substantially Related Conviction)

- 8. Respondent's license is subject to disciplinary action under Code section 4301, subdivision (l), as defined by California Code of Regulations, title 16, section 1770, in that she was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacist. The circumstances are as follows:
- 9. On or about November 22, 2011, in a criminal matter entitled *The People of the State of California v. Mary Kearns-Cochran*, Solano County Superior Court Case No. VCR211615, Respondent was convicted by plea of no contest for violating Vehicle Code section 14601.1, subdivision (a), (Driving with a Suspended License), a misdemeanor. The court sentenced Respondent to serve three days in jail and three years of court probation, and ordered her to comply with other terms and conditions.
- 10. The factual circumstances underlying the 2011 conviction are that on or about July 3, 2011, the Solano County Sheriff's Department performed a routine traffic stop on Respondent's car for a missing brake light. Respondent admitted that her driver's license was suspended due to a prior driving under the influence conviction. Respondent was on criminal probation for a Vehicle Code section 23152 conviction (Driving While Intoxicated) with an order not to drive unless licensed. In Respondent's car, one of the arresting officers observed an open can of beer and a second, cold, unopened can of beer. Respondent's Preliminary Alcohol Screening was .023% blood alcohol by volume. Respondent was arrested for violating Vehicle Code section 14601.2, subdivision (a), (Driving when Privilege Suspended due to Prior DUI), Penal Code section 23222, subdivision (a), (Possessing an Open Container), and Penal code section 1203.2 (Violation of Probation).
- 11. On or about August 28, 2011, Respondent was arrested for violating Vehicle Code section 14601.1, subdivision (a), and Penal Code section 1203.2. In a criminal matter entitled *The People of the State of California v. Mary Kearns-Cochran*, Solano County Superior Court Case No. VCR212242, Respondent was charged with violating Vehicle Code section 14601.2, subdivision (a). On or about November 22, 2011, the charge was dismissed in exchange for

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

SECOND CAUSE FOR DISCIPLINE

(Substantially Related Conviction)

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

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Commission of Acts of Moral Turpitude)

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

DISCIPLINARY CONSIDERATIONS

- 14. On or about September 10, 2008, in a criminal matter entitled *The People of the State of California v. Mary Kearns-Cochran*, Siskiyou County Superior Court Case No. 07019900, Respondent was convicted for violating Vehicle Code sections 23152, subdivision (b), (Driving under the Influence of Alcohol) and 14601.2, misdemeanor offenses that occurred on or about September 3, 2007. Respondent also admitted to a prior conviction on December 6, 2006, for violating Vehicle Code sections 23152.
- 15. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about September 27, 2010, in a prior action, the Board of Pharmacy issued Citation No. CI 2008 37155 against Respondent. The underlying bases for the citation were the 2008 convictions for violating Vehicle Code sections 23152 and 14601.2. The circumstances of the 2008 convictions are more particularly set forth in paragraph 14, above.

On or about October 24, 2000, in a criminal matter entitled The People of the State of 16. California v. Mary Kearns-Cochran, Napa County Superior Court Case No. M0149422, Respondent was convicted for violating Vehicle Code and 14601.1, subdivision (a), a misdemeanor offense that occurred on or about June 3, 2000. At the time of the arrest on or about June 3, 2000, the Napa County Sheriff's Office arrested Respondent for violating Vehicle Code section 23152, subdivision (a). The Napa County Superior Court dismissed this charge.

PRAYER

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

- Revoking or suspending Pharmacy Technician Number 45573, issued to Mary Kearns-Cochran;
- 2. Ordering Mary Kearns-Cochran 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; and
 - 3. Taking such other and further action as deemed necessary and proper.

DATED:	7	191	12
DATED:		17/	14

Board of Pharmacy State of California Complainant

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