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1 2 3 4 5 6 7 8	KAMALA D. HARRIS Attorney General of California JANICE LACHMAN Supervising Deputy Attorney General ELENA L. ALMANZO Deputy Attorney General State Bar No. 131058 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 322-5524 Facsimile: (916) 327-8643 Attorneys for Complainant		
0	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CON	SUMER AFFAIRS	
10	STATE OF CAL	IFORNIA	
11			
	In the Matter of the Accusation Against: Ca	se No. 4337	
12	JESSER HERNANDEZ DELACRUZ		
13	9168 Quail Cove Drive Elk Grove, CA 95624 A	CCUSATION	
14	Pharmacy Technician License No. TCH		
15	84851		
16	Respondent.		
17	,		
18	Complainant alleges:		
19	PARTIES		
20	1. Virginia Herold (Complainant) brings th	is 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 January 28, 2009, the Board	of Pharmacy issued Pharmacy Technician	
23	License Number TCH 84851 to Jesser Hernandez De	se Number TCH 84851 to Jesser Hernandez Delacruz (Respondent). The Pharmacy	
24	Technician License was in full force and effect at all	times relevant to the charges brought herein	
25	nd expired on July 31, 2014.		
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		Accusation	

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1	JURISDICTION	
2	3. This Accusation is brought before the Board of Pharmacy (Board), Department of	
3	Consumer Affairs, under the authority of the following laws. All section references are to the	
4	Business and Professions Code unless otherwise indicated.	
5	4. Section 4300 of the Code states:	
6	"(a) Every license issued may be suspended or revoked.	
7	5. Section 4301 of the Code states:	
8	"The board shall take action against any holder of a license who is guilty of unprofessional	
9	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
10	Unprofessional conduct shall include, but is not limited to, any of the following:	
11	"(h) The administering to oneself, of any controlled substance, or the use of any dangerous	
12	drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to	
13	oneself, to a person holding a license under this chapter, or to any other person or to the public, or	
14	to the extent that the use impairs the ability of the person to conduct with safety to the public the	
15	practice authorized by the license.	
16	"(k) The conviction of more than one misdemeanor or any felony involving the use,	
17	consumption, or self-administration of any dangerous drug or alcoholic beverage, or any	
18	combination of those substances.	
19	"(1) The conviction of a crime substantially related to the qualifications, functions, and	
20	duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13	
21	(commencing with Section 801) of Title 21 of the United States Code regulating controlled	
22	substances or of a violation of the statutes of this state regulating controlled substances or	
23	dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the	
24	record of conviction shall be conclusive evidence only of the fact that the conviction occurred.	
25	The board may inquire into the circumstances surrounding the commission of the crime, in order	
26	to fix the degree of discipline or, in the case of a conviction not involving controlled substances	
27	or dangerous drugs, to determine if the conviction is of an offense substantially related to the	
28	qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or	

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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 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 the verdict of guilty, or dismissing the accusation, information, or
indictment.

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

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

FIRST CAUSE FOR DISCIPLINE (Convictions)

8. Respondent is subject to disciplinary action under section 490 and 4301,
subdivisions (k) and (l) in that he was convicted of a crimes substantially related to the practice of
a pharmacy technician. The circumstances are as follows:

9. On or about December 9, 2011, in *People v. Jesser Hernandez Delacruz*, Superior
Court of California, County of Sacramento; Case No. 11T04552, Respondent was convicted on
his plea of guilty to a violation of Vehicle Code section 23152(b) (driving while under the
influence of alcohol with a BAC of .18) and Vehicle Code section 20002 (a) (failure to stop at the
scene of an accident).

10. The circumstances were that on or about July 14, 2011, as a result of an
investigation by the California Highway Patrol, it was determined that respondent was in a
collision. California Highway Patrol found respondent at home under the influence of alcohol.

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1	11. On or about October 7, 2009, in <i>People v. Jesser Hernandez Delacruz</i> , Superior		
2	Court of California, County of Sacramento; Case No. 09T04292, Respondent was convicted on		
3	his plea of no contest to a violation of Vehicle Code section 23152(b) (driving while under the		
4	influence of alcohol). The circumstances were that Respondent was in a traffic collision.		
5	Respondent had a BAC of .269% and reported that he had consumed 9 drinks.		
6			
7	SECOND CAUSE FOR DISCIPLINE (Use in a Manner Dangerous to self or Others)		
8	12. Respondent has subjected his license to discipline pursuant to Code section		
9	4301 (h) in that Respondent used alcohol to an extent or in a manner dangerous or injurious to		
10	himself or others, as more particularly set forth in paragraphs 8, 9, and 10, above.		
11	PRAYER		
12	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
13	and that following the hearing, the Board of Pharmacy issue a decision:		
14	1. Revoking or suspending Pharmacy Technician License Number TCH 84851, issued		
15	to Jesser Hernandez Delacruz.;		
16	2. Ordering Jesser Hernandez Delacruz to pay the Board of Pharmacy the reasonable		
17	costs of the investigation and enforcement of this case, pursuant to Business and Professions		
18	Code section 125.3;		
19	3. Taking such other and further action as deemed necessary and proper.		
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22	DATED: 62713 liginablend		
23	VIRGINIA HEROLD Executive Officer		
24 25	Board of Pharmacy Department of Consumer Affairs		
25 26	State of California Complainant		
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