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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. 4404

13 **JULIE ANN FEDERICO**
1627 Homewood Drive
Altadena, CA 91001

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
15 95243

16 Respondent.

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 (Board).

22 2. On or about January 14, 2010, the Board issued Pharmacy Technician Registration
23 No. TCH 95243 to Julie Ann Federico (Respondent). The Pharmacy Technician Registration was
24 in full force and effect at all times relevant to the charges brought herein and expired on March
25 31, 2013, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

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2 4. Section 118, subdivision (b), states that the suspension, expiration, surrender, or
3 cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary
4 action during the period within which the license may be renewed, restored, reissued or
5 reinstated.

6 5. Section 490 states, in pertinent part:

7 "(a) In addition to any other action that a board is permitted to take against a licensee, a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
10 or profession for which the license was issued.

11 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
12 discipline a licensee for conviction of a crime that is independent of the authority granted under
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
14 of the business or profession for which the licensee's license was issued.

15 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order under the
20 provisions of Section 1203.4 of the Penal Code."

21 6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
22 revoked."

23 7. Section 4300.1 states that "The expiration, cancellation, forfeiture, or suspension of
24 a board-issued license by operation of law or by order or decision of the board or a court of law,
25 the placement of a license on a retired status, or the voluntary surrender of a license by a licensee
26 shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or
27 action or disciplinary proceeding against, the licensee or to render a decision suspending or
28 revoking the license."

1 8. Section 4301 states, in pertinent part:

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

12 "(j) The violation of any of the statutes of this state, or any other state, or of the United
13 States regulating controlled substances and dangerous drugs.

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

17 "(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
25 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6

7 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by
10 the board or by any other state or federal regulatory agency."

11 **REGULATORY PROVISION**

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

13 "For the purpose of denial, suspension, or revocation of a personal or facility license
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
17 licensee or registrant to perform the functions authorized by his license or registration in a manner
18 consistent with the public health, safety, or welfare."

19 **COST RECOVERY**

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

24 **FIRST CAUSE FOR DISCIPLINE**

25 **(Convictions of Substantially-Related Crimes)**

26 11. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
27 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
28 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially

1 related to the qualifications, functions or duties of a registered pharmacy technician which to a
2 substantial degree evidence her present or potential unfitness to perform the functions authorized
3 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

4 a. On or about June 17, 2011, after pleading *nolo contendere*, Respondent was
5 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
6 [driving while having 0.08% or more, by weight, of alcohol in the blood], in the criminal
7 proceeding entitled *The People of the State of California v. Julie Ann Federico* (Super. Ct. Los
8 Angeles County, 2011, No. 1JB03722). The court sentenced Respondent to serve 96 hours in jail,
9 placed her on probation for a period of 4 years, and fined her. The circumstances surrounding the
10 conviction are that on or about March 12, 2011, a California Highway Patrol Officer, while on
11 duty, during a routine traffic stop, stopped Respondent for failing to proceed through an
12 intersection on a circular green signal, in violation of Vehicle Code section 21451, subdivision
13 (a). The officer made contact with the Respondent and smelled an odor of an alcoholic beverage
14 emitting from the inside of the vehicle. The officer observed Respondent to have red, watery
15 eyes, slow lethargic movement, and slow thick speech. The Respondent admitted to the officer
16 that she had, "One drink". The Respondent agreed to a series of Field Sobriety Tests which she
17 failed to complete satisfactorily. Respondent subsequently agreed to two breath samples with
18 results of .29% BAC and .27% BAC.

19 b. On or about October 28, 2003, after pleading *nolo contendere*, Respondent was
20 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
21 [driving while having 0.08% or more, by weight, of alcohol in the blood], in the criminal
22 proceeding entitled *The People of the State of California v. Julie Ann Federico* (Super. Ct. Santa
23 Barbara County, 2003, No. 1108910). The court sentenced Respondent to serve 8 days in jail,
24 placed her on probation for a period of 3 years, and fined her. The circumstances surrounding the
25 conviction are that on or about September 28, 2003, Respondent did unlawfully, drive a vehicle,
26 while having 0.08% or more, by weight, of alcohol in her blood.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (h), on the grounds of unprofessional conduct, in that Respondent did use an
5 alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself or others
6 when she was found to be under the influence of alcohol while driving a vehicle on March 12,
7 2011, and September 28, 2003. Complainant refers to, and by this reference incorporates, the
8 allegations set forth above in paragraph 11, subparagraphs (a) and (b), inclusive, as though set
9 forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Convictions Involving Alcohol)**

12 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (k), on the grounds of unprofessional conduct, in that Respondent was convicted of
14 more than one misdemeanor, involving the use, consumption, or self-administration of any
15 dangerous drug or alcoholic beverage, or any combination of those substances, when she was
16 found to be driving under the influence of an alcoholic beverage on March 12, 2011 and
17 September 28, 2003 and convicted for violating Vehicle Code section 23152, subdivision (b).
18 Complainant refers to, and by this reference incorporates, the allegations set forth above in
19 paragraph 11, subparagraphs (a) and (b), inclusive, as though set forth fully.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Violation of Pharmacy Act)**

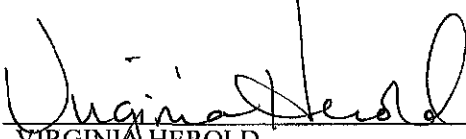
22 14. Respondent is subject to disciplinary action under section 4301, subdivision (o), on
23 the grounds of unprofessional conduct, in that Respondent was convicted of crimes that violated
24 the Pharmacy Act. Complainant refers to, and by this reference incorporates, the allegations set
25 forth above in paragraphs 11 through 13, inclusive, as though set forth fully.

26 **PRAYER**

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

- 1 1. Revoking or suspending Pharmacy Technician Registration No. TCH 95243, issued
2 to Julie Ann Federico;
3 2. Ordering Julie Ann Federico to pay the Board the reasonable costs of the
4 investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3; and
6 3. Taking such other and further action as deemed necessary and proper.

7
8 DATED: 8/14/13


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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13 accusation.rtf
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