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8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11	In the Matter of the Accusation Against:	Case No. 4440	
12	KELLY M. MURRAY aka KELLY MARIE RAMIREZ		
13	135 Sunshine Drive Pacifica, CA 94044	ACCUSATION	
14	Pharmacy Technician License No. TCH 51924		
15	Respondent.		
16	Kespondent.		
17	Complainant alleges:		
18	PARTIES		
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On or about September 29, 2003, the Board of Pharmacy issued Pharmacy Technician		
22	License No. TCH 51924 to Kelly M. Murray aka Kelly Marie Ramirez (Respondent). The		
22	Pharmacy Technician License was in full force and effect at all times relevant to the charges		
23 24	brought herein and will expire on August 31, 2013, unless renewed.		
24			
	JURISDICTION		
26 27	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
27	Consumer Affairs, under the authority of the following laws. All section references are to the		
28	Business and Professions Code (Code) unless otherwise indicated.		
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4. Section 4011 of the Code provides that the Board shall administer and enforce both
 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
 Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be
suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, 6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a 7 disciplinary action during the period within which the license may be renewed, restored, reissued 8 9 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated 10 11 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not 12 renewed within 60 days after its expiration, and any license canceled in this fashion may not be 13 reissued but will instead require a new application to seek reissuance. 14

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STATUTORY AND REGULATORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
not be limited to, any of the following:

(1) The conviction of a crime substantially related to the qualifications, functions, and duties
of a licensee under this chapter.

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8. 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 her license or registration in a
manner consistent with the public health, safety, or welfare."

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9. Section 490 of the Code provides, in pertinent part, that the Board may suspend or
 revoke a license when it finds that the licensee has been convicted of a crime substantially related
 to the qualifications, functions or duties of the license.

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

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FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime(s))

9 11. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
10 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
11 substantially related crime(s), in that on or about January 9, 2012, in the criminal case *People v*.
12 *Kelly Marie Ramirez*, Case No. SC074711 in San Mateo County Superior Court, Respondent was
13 convicted of violating Penal Code section 273.5, subdivision (a) (Willful Infliction of Corporal
14 Injury Resulting in a Traumatic Condition on Spouse/Cohabitant), a felony, as follows:

a. On or about October 30, 2011, officer(s) from the Redwood City (CA) Police
Department responded to a report of a domestic disturbance, and discovered that Respondent and
her prior/separated spouse (the victim) had been engaged in an argument or series of arguments,
after which Respondent got into her automobile and used the vehicle's front bumper to drive into
the victim and pin his leg(s) between her vehicle's bumper and another vehicle's bumper, at least
once. Respondent then fled the scene. The victim suffered injuries to his leg(s).

b. On or about November 29, 2011, Respondent was charged by Information in
Case No. SC074711 with violating (1) Penal Code section 245, subdivision (a)(1) (Assault With a
Deadly Weapon), a felony, (2) Penal Code section 236 (False Imprisonment), a felony, and (3)
Penal Code section 273.5, subdivision (a) (Willful Infliction of Corporal Injury Resulting in a
Traumatic Condition on Spouse/Cohabitant), a felony.

c. On or about January 9, 2012, Respondent pleaded nolo contendere and was
convicted of count (3) (Penal Code section 273.5, subdivision (a)), a felony, and included in the
conditions of her plea referral to Pathways, a court-sponsored mental health treatment program.

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1	d. On or about March 2, 2012, the Court ordered that Respondent was accepted	
2	into the Pathways treatment program, and further ordered that the imposition of sentence was	
3	suspended in favor of a period of supervised probation of three (3) years on terms and conditions	
4	including 149 days in county jail (149 days credit for time served/good time/work time), drug and	
5	alcohol testing, abstention from drug and alcohol use, treatment/therapy as directed, 114 hours of	
6	domestic violence counseling, search and seizure conditions, and fines, fees, and assessments.	
7	SECOND CAUSE FOR DISCIPLINE	
8	(Unprofessional Conduct)	
9	12. Respondent is subject to discipline under section 4301 of the Code in that, as	
10	described in paragraph 11 above, Respondent engaged in unprofessional conduct.	
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12	<u>PRAYER</u>	
13	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
14	and that following the hearing, the Board of Pharmacy issue a decision:	
15	1. Revoking or suspending Pharmacy Technician License No. TCH 51924, issued to	
16	Kelly M. Murray aka Kelly Marie Ramirez (Respondent);	
17	2. Ordering Respondent to pay the Board the reasonable costs of the investigation and	
18	enforcement of this case, pursuant to Business and Professions Code section 125.3;	
19	3. Taking such other and further action as is deemed necessary and proper.	
20		
21	DATED: 2/19/13 Virginia Herold	
22	VIRGINIA HEROLD	
23	Executive Offider Board of Pharmacy	
24	Department of Consumer Affairs State of California	
25	Complainant	
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	Accusation	