1 2 3 4 5 6 7 8 9	BOARD OF DEPARTMENT OF C	RE THE PHARMACY ONSUMER AFFAIRS ALIFORNIA
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11	In the Matter of the Accusation Against:	Case No. 4480
12	SAMANTHA C, TOOMER-FOSTER 7251 Brentwood Blvd. #115	
13	Brentwood, CA 94513	ACCUSATION
14	Pharmacy Technician Registration No. TCH 90586	
15	Respondent.	
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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 (Board), Department of Consumer Affairs.	
22	2. On or about April 27, 2009, the Board issued Pharmacy Technician Registration	
23	Number TCH 90586 to Samantha C. Toomer-Foster (Respondent). The Pharmacy Technician	
24	Registration was in full force and effect at all tim	es relevant to the charges brought herein and
25	will expire on August 31, 2014, unless renewed.	
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	·	ACCUSATION

1	JURISDICTION	
2	3. This Accusation is brought before the Board under the authority of the following	
3	laws. All section references are to the Business and Professions Code (Code) unless otherwise	
4	indicated.	
5	STATUTORY AND REGULATORY PROVISIONS	
6	4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,	
7	surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a	
8	disciplinary action during the period within which the license may be renewed, restored, reissued	
9	or reinstated.	
. 10	5. Section 490 of the Code provides, in pertinent part, that a board may suspend or	
11	revoke a license on the ground that the licensee has been convicted of a crime substantially	
12	related to the qualifications, functions, or duties of the business or profession for which the	
13	license was issued.	
14	6. Section 4300 of the Code states in pertinent part:	
15	"(a) Every license issued may be suspended or revoked.	
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17	7. Section 4300.1 of the Code states:	
18	"The expiration, cancellation, forfeiture, or suspension of a board-issued license by	
19	operation of law or by order or decision of the board or a court of law, the placement of a license	
20	on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board	
21	of jurisdiction to commence or proceed with any investigation of, or action or disciplinary	
22	proceeding against, the licensee or to render a decision suspending or revoking the license."	
23	8. Section 4301 of the Code states in pertinent part:	
24	"The board shall take action against any holder of a license who is guilty of unprofessional	
25	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
26	Unprofessional conduct shall include, but is not limited to, any of the following:	
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	ACCUSATION	

1	(1) The conviction of a crime substantially related to the qualifications, functions, and		
2	duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13		
3	(commencing with Section 801) of Title 21 of the United States Code regulating controlled		
4	substances or of a violation of the statutes of this state regulating controlled substances or		
5	dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the		
6	record of conviction shall be conclusive evidence only of the fact that the conviction occurred.		
7	The board may inquire into the circumstances surrounding the commission of the crime, in order		
8	to fix the degree of discipline or, in the case of a conviction not involving controlled substances		
9	or dangerous drugs, to determine if the conviction is of an offense substantially related to the		
10	qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or		
11	a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning		
12	of this provision. The board may take action when the time for appeal has elapsed, or the		
13	judgment of conviction has been affirmed on appeal or when an order granting probation is made		
14	suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of		
15	the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not		
16	guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or		
17	indictment.		
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19	COSTS		
20	9. Section 125.3 of the Code states, in pertinent part, that the Board may request the		
21	administrative law judge to direct a licentiate found to have committed a violation or violations of		
22	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and		
23	enforcement of the case.		
24	CAUSE FOR DISCIPLINE		
25	(Conviction of Substantially Related Crime)		
26	10. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision		
27	(I) of the Code in that she was convicted of a crime substantially related to the qualifications,		
28	functions, and duties of a pharmacy technician. The circumstances of Respondent's conviction		
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are as follows:

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On or about August 19, 2011, officers of the Sacramento Sheriff's Department a. 2 approached a vehicle in which Respondent was a passenger that was parked near a motel. 3 Respondent was a registered guest at the motel. The officers determined that the driver of the 4 vehicle was on probation and they performed a probation search of the vehicle. Pursuant to their 5 vehicle search, the officers discovered the following items: fifteen (15) Hydrocodone pills in a 6 plastic bindle; six (6) Clonazepam pills in a plastic bindle; and one (1) unlabeled prescription 7 bottle containing the following items: twenty-six (26) Lorazepam pills; one (1) Hydrocodone pill; 8 three (3) Clonazepam pills; and four (4) Diazepam pills. 9

b. After performing the vehicle search, the officers performed a search of Respondent's
motel room, during which they discovered a woman's purse containing the following items: one
(1) zip top bag containing the following items: eleven (11) Clonazepam pills; seven (7) Diazepam
pills; two (2) Lorazepam pills; and one (1) Phentermine Hydrochloride pill.

c. After discovering these items, the officers arrested Respondent.

d. Respondent did not have a valid prescription for any of the above-listed medication.

e. On or about October 20, 2011, in Sacramento County Superior Court (Case No.

17 11F05884), Respondent was convicted by her plea of nolo contendere of violating Health and
18 Safety Code section 11350 (possession of a controlled substance), a felony.

PRAYER

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

Revoking or suspending Pharmacy Technician Registration Number TCH 90586
 issued to Samantha C. Toomer-Foster;

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2. Ordering Samantha C. Toomer-Foster to pay the Board of Pharmacy the reasonable
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26 costs of the investigation and enforcement of this case pursuant to Business and Professions Code
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Taking such other and further action as deemed necessary and proper. 3. DATED: WIRGINIA NEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California *Complainant* SF2012403280 ACCUSATION