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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4502

13 **ANDREA JOYCE CONNER**

14 455 Nathan Lane
Paradise, CA 95969

A C C U S A T I O N

15 Pharmacy Technician License No. TCH 67462

16 Respondent.
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18 Virginia Herold (Complainant) alleges:

19 **PARTIES**

20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about May 12, 2006, the Board of Pharmacy issued Pharmacy Technician
23 License Number TCH 67462 to Andrea Joyce Conner (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought herein, and will
25 expire on April 30, 2014, 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 unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

4. Section 480(a)(3)(A) provides in pertinent part the Board may deny a license to anyone who performs an act or acts which if done by a licentiate would be grounds for suspension or revocation of the license.

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

6. Section 492 of the Code states in pertinent part, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol assessment program provided by the Vehicle Code, shall not prohibit any agency from taking disciplinary action against a licensee even if the evidence appears in an arrest report.

7. Section 493 of the Code states in pertinent part, in a proceeding conducted by a board within the department to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline.

8. Section 4300 provides in relevant part:

(a) Every license issued may be suspended or revoked.

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1 9. Section 4301 provides in relevant part:

2 The board shall take action against any holder of a license who is guilty of
3 unprofessional conduct. Unprofessional conduct shall include, but not be limited to, any of the
4 following:

5 (h) ...use of any dangerous drug or...alcoholic beverage to the extent or in a
6 manner dangerous to oneself ... or to others or the public.

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

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

11 10. Title 16 California Code of Regulations section 1770 provides:

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

18 **DANGEROUS DRUGS**

19 11. Section 4022 provides:

20 "Dangerous drug" or "dangerous device" means any drug or
21 device unsafe for self-use in humans or animals, and includes the
22 following:

23 (a) Any drug that bears the legend: "Caution: federal law
24 prohibits dispensing without prescription," "Rx only," or words of
25 similar import.

26 (b) Any device that bears the statement: "Caution: federal law
27 restricts this device to sale by or on the order of a _____," "Rx
28 only," or words of similar import, the blank to be filled in with the
designations of the practitioner licensed to use or order use of the
device.

 (c) Any other drug or device that by federal or state law can be
lawfully dispensed only on prescription or furnished pursuant to
Section 4006.

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12. Section 4060 provides in relevant part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist...

COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Director 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

(Conviction of a Crime Substantially Related)

14. Respondent's pharmacy technician license is subject to disciplinary action for unprofessional conduct pursuant to section 4301(l) and Title 16 Code of Regulations section 1770 in that Respondent was convicted of a crime substantially related to the duties, functions and qualifications of a pharmacy technician. The circumstances are as follows:

15. On or about June 28, 2012, Respondent was convicted by her plea of no contest to violating Health and Safety Code section 11550(a), Use or Under the Influence of a Controlled Substance, a misdemeanor, in Butte County Superior Court, Case No. SCR 88026, *People v. Andrea Joyce Conner*. The circumstances of the crime are that on February 15, 2012, Respondent was operating a vehicle after ingesting the controlled substance commonly referred to as ecstasy in violation of Health and Safety Code section 11550(a). While under the influence of the drug and operating a motor vehicle, Respondent failed to obey a red light for her direction of travel and was observed by a police officer driving through an intersection against the red light

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Dangerous Conduct)

16. Respondent's pharmacy technician license is subject to disciplinary action for unprofessional conduct pursuant to section 4301(h) because Respondent used a controlled substance and dangerous drug to an extent and in a manner that was dangerous to herself or others. The circumstances are as follows:

1 17. Paragraph 15 is incorporated herein as though set forth at length. Respondent's
2 conduct by operating a motor vehicle after ingesting ecstasy and the conviction for violation
3 Health and Safety Code section 11550(a) demonstrates a lack of fitness to perform the functions,
4 duties and obligations of a pharmacy technician and constitute a danger to public health, safety
5 and welfare.

6 **THRID CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct-Violation of Statutes)**

8 18. Respondent's pharmacy technician license is subject to disciplinary action for
9 unprofessional conduct pursuant to sections 4301(j) and 4060 in that Respondent violated statutes
10 and laws regulating controlled substances and dangerous drugs. The circumstances are as
11 follows:

12 19. Paragraphs 15 and 17 are incorporated herein as though set forth at length.
13 Respondent's acts and conduct leading to Respondent's convictions demonstrates Respondent is
14 not fit to perform the duties, obligations and functions of a pharmacy technician and warrants
15 denial of a pharmacy technician license.

16 **PRAYER**

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

- 19 1. Revoking or suspending Pharmacy Technician license No. TCH 67462, issued to
20 Andrea Joyce Conner;
21 2. Ordering Andrea Joyce Conner to pay the Board of Pharmacy the reasonable costs
22 of the investigation and enforcement of this case, pursuant to Business and Professions Code
23 section 125.3; and

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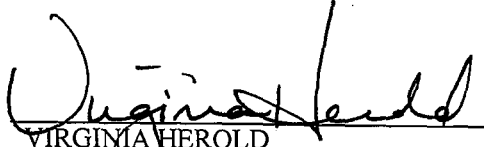
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3. Taking such other and further action as deemed necessary and proper.

DATED: 11/4/13



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