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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **CIARA NICOLE OLIVAS**  
13 1180 Fair Oaks Avenue  
14 Arroyo Grande, CA 93420  
15 Pharmacy Technician Registration No. TCH  
102999  
16 Respondent.

Case No. 4582

**ACCUSATION**

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 June 03, 2010, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 102999 to Ciara Nicole Olivas ("Respondent"). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on October 31, 2013, unless renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

- 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 ("Code"), unless otherwise

1 indicated.

2 4. Section 4300, subdivision (a) of the Code, states that “[e]very license issued may be  
3 suspended or revoked.”

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

8 6. Section 490 of the Code states, in pertinent part:

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

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

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

26 7. Section 4301 of the Code states, in pertinent part:

27 “The board shall take action against any holder of a license who is guilty  
28 of unprofessional conduct or whose license has been procured by fraud or  
29 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is  
30 not limited to, any of the following:

31 ...

32 (h) The administering to oneself, of any controlled substance, or the use  
33 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
34 dangerous or injurious to oneself, to a person holding a license under this chapter, or  
35 to any other person or to the public, or to the extent that the use impairs the ability of  
36 the person to conduct with safety to the public the practice authorized by the license.

37 ...

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

1 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
2 States Code regulating controlled substances or of a violation of the statutes of this  
3 state regulating controlled substances or dangerous drugs shall be conclusive  
4 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
5 be conclusive evidence only of the fact that the conviction occurred. The board may  
6 inquire into the circumstances surrounding the commission of the crime, in order to  
7 fix the degree of discipline or, in the case of a conviction not involving controlled  
8 substances or dangerous drugs, to determine if the conviction is of an offense  
9 substantially related to the qualifications, functions, and duties of a licensee under this  
10 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
11 contendere is deemed to be a conviction within the meaning of this provision. The  
12 board may take action when the time for appeal has elapsed, or the judgment of  
13 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  
15 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
16 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
17 dismissing the accusation, information, or indictment.

18 ...

19 (o) Violating or attempting to violate, directly or indirectly, or assisting  
20 in or abetting the violation of or conspiring to violate any provision or term of this  
21 chapter or of the applicable federal and state laws and regulations governing  
22 pharmacy, including regulations established by the board or by any other state or  
23 federal regulatory agency.”

#### 24 REGULATORY PROVISION

25 8. California Code of Regulations, title 16, section 1770, states:

26 “For the purpose of denial, suspension, or revocation of a personal or  
27 facility license pursuant to Division 1.5 (commencing with Section 475) of the  
28 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 his license or registration in a manner  
consistent with the public health, safety, or welfare.”

#### 29 DRUG DEFINITIONS

30 9. Lorazepam (Ativan) is a Schedule IV controlled substance as defined by section  
31 11057(d)(16) of the Health and Safety Code and is a dangerous drug pursuant to Business and  
32 Professions Code section 4022.

33 10. Soma is a trade name for carisoprodol tablets; carisoprodol is a muscle-relaxant and  
34 sedative. Soma is a Schedule IV controlled substance as defined by section 11057 of the Health  
35 and Safety Code and is a dangerous drug pursuant to Business and Professions Code section  
36 4022.

37 ///

1 **COST RECOVERY**

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Substantially Related Crime)**

10 12. Respondent is subject to disciplinary action under section 490 and section 4301,  
11 subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section  
12 1770, in that Respondent was convicted of a crime substantially related to the qualifications,  
13 functions, or duties of a registered pharmacy technician, as follows:

14 13. On or about October 18, 2012, Respondent pled nolo contendere to and was  
15 convicted of one misdemeanor count of violating Vehicle Code section 23103/23103.5 [reckless  
16 driving/plea to lesser charge] in the criminal proceeding entitled *The People of the State of*  
17 *California v. Ciara Nicole Olivas* (Super. Ct. San Luis Obispo County, 2012, No. M000469639).  
18 The court indicated that this is an "Alcohol or Drug Related 23103 Conviction." The court placed  
19 Respondent on probation for eighteen (18) months, with terms and conditions. The circumstances  
20 surrounding the conviction are, as follows:

21 14. On or about January 18, 2012, a Grover Beach City Police Department Officer  
22 conducted a traffic enforcement stop on a vehicle driven by Respondent. Upon making contact  
23 with Respondent, the officer observed a four (4) year old child that was unrestrained in the back  
24 seat of the vehicle. The officer observed that Respondent had slurred speech, slow and  
25 methodical movements, was having difficulty retaining information and following directions.  
26 Respondent admitted to taking two (2) 350 mg Lorazepam pills and two (2) 0.5 mg Somas pills.  
27 The officer recovered two (2) prescription bottles from Respondent.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Dangerous Use of Alcohol and / or Drugs)**

3 15. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the  
4 Code, on the grounds of unprofessional conduct, in that Respondent administered to herself  
5 controlled substances and dangerous drugs to an extent and in a manner dangerous or injurious to  
6 herself, others and the public. The circumstances are described in more particularity in paragraph  
7 14, above, inclusive and hereby incorporated by reference.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct: Violation of Pharmacy Act Statutes and Regulations)**

10 16. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the  
11 Code, on the grounds of unprofessional conduct, in that Respondent violated provisions of  
12 Pharmacy Law. The violations are described in more particularity in paragraphs 12 through 15  
13 above, inclusive and hereby incorporated by reference.

14 **PRAYER**

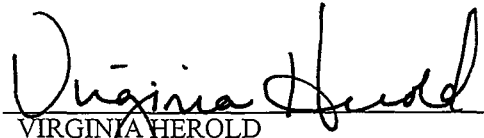
15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board issue a decision:

17 1. Revoking or suspending Pharmacy Technician Registration No. TCH 102999, issued  
18 to Ciara Nicole Olivas;

19 2. Ordering Ciara Nicole Olivas to pay the Board the reasonable costs of the  
20 investigation and enforcement of this case, pursuant to Business and Professions Code section  
21 125.3; and

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

23  
24 DATED: 12/19/13

  
25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

LA2013508827