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8	BEFORE THE BOARD OF PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	In the Matter of the Accusation Against:	Case No. 4717
12	AMOND DELVON SANDERS 201 Maine Street, B2	
13	Vallejo, CA 94590	ACCUSATION
14	Pharmacy Technician Registration No. TCH 41584	
15	. Respondent.	
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17	Complainant alleges:	
18	<u>PARTIES</u>	
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as	
20	the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.	
21	2. On or about September 19, 2002, the Board of Pharmacy issued Pharmacy Technician	
22	Registration Number TCH 41584 to Amond Delvon Sanders (Respondent). The Pharmacy	
23	Technician Registration was in full force and effect at all times relevant to the charges brought	
24	herein and will expire on May 31, 2014, unless renewed.	
25	<u>JURISDICTION</u>	
26	3. This Accusation is brought before the Board under the authority of the following laws	
27	All section references are to the Business and Professions Code (Code) unless otherwise	
28	indicated.	
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- 4. Code section 4011 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. Code section 4300(a) provides that every license issued by the Board may be suspended or revoked.
- 6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

## STATUTORY AND REGULATORY PROVISIONS

7. Code section 4301 states:

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

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

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- "(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.
- "(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled

substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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- 8. Code section 490 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.
  - 9. 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 his license or registration in a manner consistent with the public health, safety, or welfare."

### COST RECOVERY

10. Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

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the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### **FACTS**

- 11. On or about October 23, 2012, in the Superior Court of California, County of Contra Costa, State of California, Case No. 12002462-0, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or greater), with priors, a felony. Respondent admitted to three (3) prior alcohol related convictions within ten years. Imposition of sentence was suspended in favor of a four (4) year formal probation term. Respondent was ordered to, among other things, spend 180 days in jail, submit to drug testing, complete a Post Conviction Drinking Driver's Program, and pay fines and fees. The conviction arose from an incident that occurred on or about May 23, 2012 when officers pulled Respondent over during a routine traffic stop. Respondent admitted consuming two beers prior to driving and officers found an open bottle of Hennessy in the center console that was <sup>3</sup>/<sub>4</sub> empty. The Preliminary Alcohol Screening (PAS) device measured Respondent's blood alcohol level at .150% and .160%.
- On or about June 24, 2004, in the Superior Court of California, County of Alameda, State of California, Case No. 494658, Respondent was convicted of violating Vehicle Code section 23103.5 (alcohol related reckless driving), a misdemeanor. Imposition of sentence was suspended in favor of a two (2) year probation term. Respondent was ordered to, among other things, serve two (2) days in county jail, pay fines and fees, abstain from having or using drugs, and submit to alcohol detection tests. The conviction arose from Respondent's arrest on or about December 21, 2003.
- 13. On or about March 22, 2004, in the Superior Court of California, County of Solano, Case No. FCR 208732, Respondent was convicted of violating Vehicle Code sections 23152, subdivision (a) (driving under the influence), with two (2) priors, a misdemeanor; 23222, subdivision (a) (possession of open container while driving), a misdemeanor; and 27315, subdivision (d)(1) (failure to wear seatbelt), a misdemeanor. Imposition of sentence was suspended in favor of a three (3) year formal probation term to be served consecutively with Case

No. VCR 171465. Respondent was ordered to, among other things, serve 365 days in jail, commit himself to CAT II, pay fines and fees, totally abstain from using drugs and alcohol, submit to alcohol and drug testing at any time, and submit his person and property to warrantless searches. The conviction arose from Respondent's arrest on or about June 19, 2003.

- 14. On or about March 10, 2004, in the Superior Court of California, County of Solano, Case No. VCR 171465, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08 percent or greater), with one prior, a misdemeanor. Imposition of sentence was suspended in favor of a three (3) year formal probation term to be served consecutively with Case No. FCR 208732 (paragraph 13, above). The conviction arose from Respondent's arrest on or about January 3, 2004.
- 15. On or about May 1, 2003, in the Superior Court of California, County of Solano, Case No. VCR 163938, Respondent was convicted of violating Vehicle Code section 14601.1, subdivision (a) (driving with suspended license), a misdemeanor. Imposition of sentence was suspended in favor of a two (2) year probation term. Respondent was ordered to, among other things, serve five (5) days in county jail, pay fines and fees, submit to alcohol and drug testing at any time, attend counseling and therapy, and attend a parenting class. The conviction arose from Respondent's arrest on or about October 12, 2002.
- 16. On or about May 3, 2002, in the Superior Court of California, County of Solano, Case No. VCR 156054, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08 percent or greater), a misdemeanor. Imposition of sentence was suspended in favor of a three (3) year probation term. Respondent was ordered to, among other things, serve seven (7) days in county jail, pay fines and fees, submit to alcohol and drug testing at any time, and attend a first offender DUI program.

# FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime(s))

17. Respondent is subject to disciplinary action under Code sections 4301, subdivision (l), and/or 490, by reference to California Code of Regulations, title 16, section 1770, for the conviction of a substantially related crime(s) as described in paragraphs 11-16, above.

### SECOND CAUSE FOR DISCIPLINE 1 (Dangerous or Injurious Use of Alcohol) 2 18. Respondent is subject to discipline under Code section 4301, subdivision (h), in that 3 Respondent used alcohol in a dangerous or injurious manner as described in paragraphs 11-14, and 4 16, above. 5 THIRD CAUSE FOR DISCIPLINE 6 (Conviction of Alcohol-Related Offense(s)) 7 Respondent is subject to discipline under Code section 4301, subdivision (k), in that 8 Respondent was convicted of more than one misdemeanor and/or a felony, involving alcohol, as 9 described in paragraphs 11-14, and 16, above. 10 FOURTH CAUSE FOR DISCIPLINE 11 (Unprofessional Conduct) 12 20. Respondent is subject to discipline under Code section 4301, in that Respondent 13 engaged in unprofessional conduct as described in paragraphs 11-16, above. 14 **PRAYER** 15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 16 and that following the hearing, the Board of Pharmacy issue a decision: 17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 41584, 18 issued to Amond Delvon Sanders; 19 Ordering Amond Delvon Sanders to pay the Board of Pharmacy the reasonable costs 2. 20 of the investigation and enforcement of this case, pursuant to Business and Professions Code 21 section 125.3; 22 Taking such other and further action as deemed necessary and proper. 3. 23 24 25 Executive Officer 26 Board of Pharmacy Department of Consumer Affairs 27 State of California Complainant 28 SF2013405050/40895621.doc