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8	Attorneys for Complainant			
9	DEFODE THE			
10	BEFORE THE BOARD OF PHARMACY DED A DIMENTION CONSUMED A FEADS			
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
12	In the Matter of the Accusation Against: Cas	e No. 4776		
13		CCUSATION		
14	4027 Estrella Avenue B San Diego, CA 92105			
15	Pharmacy Technician Registration No. TCH 109101			
16	Pharmacy Technician Registration No. TCH 130305			
17	Respondent.	· · · · · · · · · · · · · · · · · · ·		
18	Complainant alleges:	:		
19	PARTIES			
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official			
21	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.			
22	2. On February 25, 2011, the Board of Pharmacy issued Pharmacy Technician			
23	Registration Number TCH 109101 to Daniel Quiroz, Jr. (Respondent). Respondent has also been			
24	known as Daniel Quiroz. Pharmacy Technician Registration Number TCH 109101 expired on			
25	July 31, 2012, and has not been renewed.			
26	3. On February 11, 2013, the Board of Pharmacy issued Pharmacy Technician			
27	Registration Number TCH 130305 to Respondent. Pharmacy Technician Registration Number			
28	TCH 130305 expired on July 11, 2013, and has not been renewed.			
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	JURISDICTION
	4. 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 (Code) unless otherwise indicated.	
	5. Section 4300, subdivision (a), of the Code provides that every license issued by t
Board may be suspended or revoked.	
	6. Section 4300.1 of the Code states:
	The expiration, cancellation, forfeiture, or suspension of a board-issued
license by operation of law or by order or decision of the board or a court of law, 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.	
	7. Section 482 of the Code states:
Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:	
(a) Considering the denial of a license by the board under Section 480; or	
	(b) Considering suspension or revocation of a license under Section 490.
Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.	
	8. 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.	
	9. Section 493 of the Code states:
	Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
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pertaining to an arrest. This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

10. Section 4301 of the Code 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:

(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.

(1) 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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1	REGULATORY PROVISIONS	
2	11. California Code of Regulations, title 16, section 1769, states:	
	11. Camorina Code of Regulations, the 10, section 1709, states.	
3	$(1) \qquad \qquad$	
4 5	(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:	
6	(1) Nature and severity of the act(s) or offense(s).	
7	(2) Total criminal record.	
8	(3) The time that has elapsed since commission of the act(s) or offense(s).	
0	(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.	
1	(5) Evidence, if any, of rehabilitation submitted by the licensee.	
2	12. California Code of Regulations, title 16, section 1770, states:	
3 4 5 6 7	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.	
8	COST RECOVERY	
9	13. Section 125.3 of the Code provides, in pertinent part, that the Board may request	
.0	the administrative law judge to direct a licentiate found to have committed a violation or	
1	violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation	
.2	and enforcement of the case, with failure of the licentiate to comply subjecting the license to not	
3	being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs	
.4	may be included in a stipulated settlement.	
5	FIRST CAUSE FOR DISCIPLINE	
.6	(April 22, 2013 Conviction for Driving With a BAC of .08% or More on January 25, 2013)	
7	14. Respondent has subjected his pharmacy technician registrations to discipline under	
	Code sections 490 and 4301, subdivision (1), in that he was convicted of a crime that is	
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substantially related to the qualifications, functions, and duties of a registered pharmacy technician. The circumstances are as follows:

a. On April 22, 2013, in a criminal proceeding entitled *The People of the State of California vs. Daniel Quiroz, Jr., aka Daniel Quiroz*, in San Diego County Superior
Court, Central Division, Central Courthouse Case Number M163909, Respondent was convicted
on his plea of guilty to violating Vehicle Code (VC) 23152, subdivision (b), driving with a blood
alcohol concentration (BAC) of 0.08 percent or more, a misdemeanor. Charges for violating VC
sections 23152, subdivision (a), driving under the influence of alcohol (DUI) and 23103,
subdivision (a), reckless driving, misdemeanors, were dismissed as a result of a plea bargain.

b. As a result of the conviction, on April 22, 2013, Respondent was granted
five years summary probation and sentenced to serve 10 days, with credit for one day actually
served and pay a fine of \$2,123.00 in lieu of rendering 22 additional days under the public
service program, which was suspended. Respondent was also ordered to pay restitution and fees,
and attend and satisfactorily complete a nine-month first offender alcohol and other drug
education and counseling program, and a Mothers Against Drunk Driving (MADD) Victim
Impact Panel.

The facts that led to the conviction are that on January 25, 2013, c. 17 Respondent was driving over the speed limit along Orange Avenue in San Diego, California and 18 passed the patrol vehicle of two San Diego Police Department officers. The officers positioned 19 their patrol vehicle behind Respondent's, which turned into Estrella Avenue at a speed of about 20 40 miles per hour. The posted speed for Estrella Avenue was 25 miles per hour. The officers then 21 activated their forward red lights to initiate an enforcement stop. Respondent yielded and during 22 the initial contact the officers observed Respondent's blood shot and watery eyes, with dilated 23 pupils. Respondent smelled of alcohol, had an unsteady gait, and his speech was slurred and hard 24 to understand. Respondent became extremely hostile and initially refused to provide breath or 25 blood samples. Respondent was transported to the San Diego Police Department Headquarters 26 where he provided a blood sample, which upon testing indicated a BAC of .26 percent. 27

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1	SECOND CAUSE FOR DISCIPLINE		
2	(Unprofessional Conduct - Dangerous Use of Alcohol)		
3	15. Respondent subjected his pharmacy technician registrations to discipline under		
4	Code section 4301, subdivision (h) in that on January 25, 2013, he used alcohol to the extent and		
5	in a manner that was dangerous and injurious to himself and to the public, as detailed in		
6	paragraph 14, above.		
7	PRAYER		
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein		
9	alleged, and that following the hearing, the Board of Pharmacy issue a decision:		
10	1. Revoking or suspending Pharmacy Technician Registration Numbers TCH		
11	109101 and TCH 130305, issued to Daniel Quiroz, Jr. also known as Daniel Quiroz;		
12	2. Ordering Daniel Quiroz, Jr. to pay the Board of Pharmacy the reasonable costs of		
13	the investigation and enforcement of this case, pursuant to Business and Professions Code		
14	section 125.3;		
15	3. Taking such other and further action as deemed necessary and proper.		
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19	DATED: 11913 UGINIA VEROLD		
20	Executive Officer Board of Pharmacy		
21	Department of Consumer Affairs State of California		
22	Complainant		
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