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

11 In the Matter of the Accusation Against:

Case No. 4923

12 **DANNY HORACIO RAMOS**
13 5976 Guthrie Ave.
Los Angeles, CA 90034

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 45834

16 Respondent.

17
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.

22 2. On or about January 17, 2003, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 45834 to Danny Horacio Ramos (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 November 30, 2014, unless renewed.

26 **JURISDICTION**

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 unless otherwise indicated.

1 STATUTORY PROVISIONS

2 4. Section 490 states, in pertinent part:

3 "(a) In addition to any other action that a board is permitted to take against a licensee, a
4 board may suspend or revoke a license on the ground that the licensee has been convicted of a
5 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
6 or profession for which the license was issued.

7 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
8 discipline a licensee for conviction of a crime that is independent of the authority granted under
9 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
10 of the business or profession for which the licensee's license was issued.

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

17 5. Section 4300 provides in pertinent part, that every license issued by the Board is
18 subject to discipline, including suspension or revocation.

19 6. Section 4300.1 states:

20 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
21 operation of law or by order or decision of the board or a court of law, the placement of a license
22 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
23 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
24 proceeding against, the licensee or to render a decision suspending or revoking the license."

25 7. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
28 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.

....

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

REGULATORY PROVISIONS

8. 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

9. 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 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

(Convictions of Substantially Related Crimes)

10. Respondent is subject to disciplinary action under sections 4300, 4301, subdivision (I) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a pharmacy technician as follows:

a. On or about June 10, 2013, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v. Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 3IG01811.)

1 The Court sentenced Respondent to serve 96 hours in Los Angeles County Jail and placed him on
2 5 years probation, with terms and conditions.

3 b. The circumstances surrounding the conviction are that on or about January 28, 2013,
4 during an investigation by the California Highway Patrol, Respondent was contacted. His vehicle
5 was stopped on the right shoulder of the freeway. Respondent told the officer he had gotten a flat
6 tire on his way home and had been stopped on the side of the road for two hours. While speaking
7 to Respondent, the officer could observe objective signs and symptoms of alcohol intoxication.
8 He had slurred speech, bloodshot, red watery eyes, and an odor of an alcoholic beverage
9 emanating from his breath and within the vehicle. Respondent was asked to exit the vehicle and
10 do a series of field sobriety tests, which he was unable to perform. During the booking
11 procedure, Respondent submitted to blood test that resulted in a blood alcohol content level of
12 0.20%.

13 c. On or about August 15, 2012, after pleading nolo contendere, Respondent was
14 convicted of one misdemeanor count of violating Penal Code section 647, subdivision (f)
15 [disorderly conduct/public intoxication] in the criminal proceeding entitled *The People of the*
16 *State of California v. Danny Horacio Ramos* (Los Angeles County Superior Court Case No.
17 2WA23320.) The Court sentenced Respondent to serve four days in Los Angeles County Jail and
18 placed him on 12 months probation, with terms and conditions.

19 d. The circumstances surrounding the conviction are that on or about April 30, 2012,
20 during an investigation of a parked car in the middle of the street by Santa Monica Police,
21 Respondent was contacted. Respondent was asleep in the vehicle and the officer had to knock on
22 the driver's door window a number of times to obtain a response. When asked why he was
23 stopped in the middle of the street, Respondent stated, "I am here with friends." When
24 Respondent spoke the officer detected a strong odor of an alcoholic beverage emanating from his
25 breath and body. He had slurred speech, was slow to respond to direct questions, and was very
26 disoriented. The officer could see several beer cans on the floor board of the front passenger seat.
27 When asked if he had been drinking any alcoholic beverages, Respondent stated, "Come on
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1 officer, Yes.” Respondent was subsequently arrested for violating Penal Code section 647,
2 subdivision (f) [disorderly conduct/public intoxication].

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Conviction Involving Alcohol)**

5 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
6 subdivision (k), on the grounds of unprofessional conduct, in that Respondent sustained another
7 criminal conviction involving alcoholic beverages. Complainant refers to and by this reference
8 incorporates the allegations set forth above in paragraph 10, subparagraphs (a) and (c), inclusive,
9 as though set forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (h), on the grounds of unprofessional conduct, in that Respondent used alcoholic
14 beverages to an extent or in a manner dangerous or injurious to himself, any person, or the public.
15 Complainant refers to and by this reference incorporates the allegations set forth above in
16 paragraphs 10, subparagraphs (b) and (d), inclusive, as though set forth fully.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

19 13. Respondent is subject to disciplinary action under section 4301, (o), in that
20 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing
21 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above
22 in paragraphs 10-12, inclusive, as though set forth fully.

23 **DISCIPLINE CONSIDERATIONS**

24 14. In order to determine the degree of discipline, if any to be imposed on Respondent,
25 Complainant alleges, as follows:

26 a. On or about April 13, 2010, the Board issued Citation and Fine No. CI 2008 37343 to
27 Respondent for violating section 4301, subdivisions (f), (h), and (i), resulting in the issuance of a
28 \$500.00 fine. Respondent paid the Citation fine, which was based upon the following convictions:

1 b. On or about April 25, 2008, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a)
3 [driving without a license] in the criminal proceeding entitled *The People of the State of*
4 *California v. Danny Horacio Ramos* (Ventura County Superior Court Case No. 2007046624.)
5 The Court sentenced Respondent to serve two days in Ventura county Jail and placed him on 36
6 months probation, with terms and conditions. The circumstances surrounding the conviction are
7 that on or about May 29, 2007, Respondent was arrested.

8 c. On or about June 20, 2007, after pleading nolo contendere, Respondent was convicted
9 of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving
10 while driver's license is suspended or revoked] in the criminal proceeding entitled *The People of*
11 *the State of California v. Danny Horacio Ramos* (Ventura County Superior Court Case No.
12 200702061.) The Court sentenced Respondent to serve 45 days in Ventura County Jail and
13 placed him on 36 months probation, with terms and conditions. The circumstances surrounding
14 the conviction are that on or about May 28, 2007, Respondent was arrested.

15 d. On or about November 16, 2007, Respondent was convicted of violating Vehicle
16 Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol
17 in his blood] in the criminal proceeding entitled *The People of the State of California v. Danny*
18 *Horacio Ramos* (Los Angeles County Superior Court Case No. 7WA01595) The Court sentenced
19 Respondent to serve 60 days in Los Angeles County Jail and place on 5 years probation, with
20 terms and conditions. The circumstances surrounding the conviction are that on or about March
21 11, 2007, Respondent was arrested.

22 e. On or about January 22, 2007, Respondent was convicted of one misdemeanor count
23 of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more,
24 by weight, of alcohol in his blood] and one misdemeanor count of Vehicle Code section 14601.1,
25 subdivision (a) [driving while driver's license is suspended or revoked] in the criminal proceeding
26 entitled *The People of the State of California v. Danny Horacio Ramos* (Los Angeles County
27 Superior Court Case No. 6WA04018.) The Court sentenced Respondent to serve 15 days in Los
28 Angeles County Jail and placed him on 36 months probation, with terms and conditions. The

1 circumstances surrounding the conviction are that on or about December 25, 2006, Respondent
2 was arrested.

3 f. On or about December 4, 2006, Respondent was convicted of one misdemeanor count
4 of violating Vehicle Code section 14601.1, subdivision (a) [driving while driver's license is
5 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*
6 *Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 6WA03073.) The Court
7 sentenced Respondent to serve five days in Los Angeles County Jail and placed her on 36 months
8 probation, with terms and conditions. The circumstances surrounding the conviction are that on
9 or about August 28, 2006.

10 g. On or about August 30, 2006, Respondent was convicted of one misdemeanor count
11 of violating Vehicle Code section 14601.1, subdivision (a) [driving while driver's license is
12 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*
13 *Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 6SY06338.) The Court
14 placed Respondent on 3 years probation, with terms and conditions. The circumstances
15 surrounding the conviction are that on or about June 25, 2006, Respondent was arrested.

16 h. On or about October 17, 2006, Respondent was convicted of one misdemeanor count
17 of violating Vehicle Code section 14601.1, subdivision (a) [driving while driver's license is
18 suspended or revoked] in the criminal proceeding entitled *The People of the State of California v.*
19 *Danny Horacio Ramos* (Los Angeles County Superior Court Case No. 6IG02881.) The Court
20 sentenced Respondent to serve 10 days in Los Angeles County Jail and placed him on 3 years
21 probation, with terms and conditions. The circumstances surrounding the conviction are that on
22 or about June 21, 2006, Respondent was arrested

23 i. On or about January 8, 2004, Respondent was convicted of one misdemeanor count
24 of violating Penal Code section 273.5, subdivision (a) [infliction of corporal injury on spouse or
25 cohabitant] in the criminal proceeding entitled *The People of the State of California v. Danny*
26 *Horacio Ramos* (Los Angeles County Superior Court Case No. BA258181.) The Court sentenced
27 Respondent to serve 90 days in Los Angeles County Jail and placed him on 24 months probation,

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1 with terms and conditions. The circumstances surrounding the conviction are that on or about
2 December 23, 2003, Respondent was arrested.

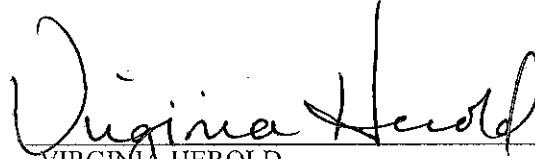
3 PRAYER

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

- 6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 45834, issued
7 to Respondent;
- 8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
9 enforcement of this case, pursuant to section 125.3; and
- 10 3. Taking such other and further action as deemed necessary and proper.

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12 Dated: _____

2/4/14



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

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