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

11 In the Matter of the Accusation Against:

Case No. 5206

12 **SHELI DALANE WOOTEN**
13 **5123 Iris Ct.**
14 **Visalia, CA 93277**

ACCUSATION

15 **Pharmacy Technician Registration No.**
16 **63396**

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 ("Board"), Department of Consumer Affairs.

22 2. On or about June 28, 2005, the Board issued Pharmacy Technician Registration
23 Number 63396 to Sheli Dalane Wooten ("Respondent"). The registration was in full force and
24 effect at all times relevant to the charges brought herein and will expire on February 28, 2015,
25 unless renewed.

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JURISDICTION

3. Business and Professions Code ("Code") section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

4. Code section 4300.1 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.

STATUTORY PROVISIONS

5. Code section 4301 states, in pertinent part:

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:

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(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.

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

(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

1 substantially related to the qualifications, functions, and duties of a licensee under this
2 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere is deemed to be a conviction within the meaning of this provision. The
4 board may take action when the time for appeal has elapsed, or the judgment of
5 conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under
7 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
8 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
9 dismissing the accusation, information, or indictment.

6. Code section 492 states:

7 Notwithstanding any other provision of law, successful completion of any
8 diversion program under the Penal Code, or successful completion of an alcohol and
9 drug problem assessment program under Article 5 (commencing with Section
10 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
11 agency established under Division 2 (commencing with Section 500) of this code, or
12 any initiative act referred to in that division, from taking disciplinary action against a
13 licensee or from denying a license for professional misconduct, notwithstanding that
14 evidence of that misconduct may be recorded in a record pertaining to an arrest. This
15 section shall not be construed to apply to any drug diversion program operated by any
16 agency established under Division 2 (commencing with Section 500) of this code, or
17 any initiative act referred to in that division.

13 COST RECOVERY

14 7. Code section 125.3 provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 **DRUGS**

19 8. Methamphetamine is a Schedule II controlled substance as designated by Health and
20 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to
21 section 4022 of the Code.

22 FIRST CAUSE FOR DISCIPLINE

23 (Conviction of Crimes)

24 9. Respondent is subject to discipline pursuant to Code section 4301(l), on the grounds
25 of unprofessional conduct, in that Respondent was convicted of crimes which are substantially
26 related to the qualifications, functions, or duties of a pharmacy technician, as follows:

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1 a. On or about September 17, 2012, in the case of *People v. Sheli Dalane Wooten*,
2 (Super. Ct. Tulare County, 2012, Case No. TCM271289), Respondent was convicted by the Court
3 on her plea of guilty of violating Vehicle Code section 23152(b) (driving with a blood alcohol
4 level of .08% or higher), a misdemeanor, with an enhancement of Vehicle Code section 23578
5 (having a blood alcohol level of .15% or higher). The circumstances of the crime were that on or
6 about July 8, 2012, Respondent drove a vehicle while having a blood alcohol level of 0.17% and
7 almost struck a center median.

8 b. On or about December 2, 2013, in the case of *People v. Sheli Dalane Wooten*, (Super.
9 Ct. Tulare County, 2013, Case No. VCM281786), Respondent was convicted by the Court on her
10 plea of nolo contendere of violating Vehicle Code section 23152(b) (driving with a blood alcohol
11 level of .08% or higher), a misdemeanor, with an enhancement of Vehicle Code section 23578
12 (having a blood alcohol level of .15% or higher), and a prior conviction of the same, set forth
13 above in subdivision (a). Respondent was also convicted on her plea of guilty to violating
14 Vehicle Code section 14601.2(a) (driving with a suspended license for a prior driving under the
15 influence of alcohol conviction), a misdemeanor, and Health and Safety Code section 11550(a)
16 (under the influence of a controlled substance, Methamphetamine), a misdemeanor. The
17 circumstances of the crime were that on or about January 30, 2013, Respondent drove a vehicle
18 while under the influence of Methamphetamine, and with a blood alcohol level of 0.20%, and was
19 involved in a collision.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Violation of State Laws Regulating Controlled Substance)**

22 10. Respondent is subject to discipline pursuant to Code section 4301(j), on the grounds
23 of unprofessional conduct, in that on or about January 30, 2013, Respondent violated Health and
24 Safety Code sections 11550(a), when she was under the influence of a controlled substance,
25 Methamphetamine, without a prescription, as more particularly set forth above in paragraph 9,
26 subdivision (b).

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol and Controlled Substances)**

3 11. Respondent is subject to discipline pursuant to Code section 4301(h), on the grounds
4 of unprofessional conduct, in that on or about July 8, 2012, and January 30, 2013, Respondent
5 consumed alcohol to the extent or in a manner as to be dangerous or injurious to oneself and to
6 the public, in that Respondent drove a vehicle while under the influence of alcohol, as more
7 particularly set forth above in paragraph 9, subdivisions (a) and (b). In addition, on or about
8 January 30, 2013, Respondent used a controlled substance, Methamphetamine, while driving a
9 vehicle.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Conviction Involving the Use of Alcohol and Dangerous Drugs)**

12 12. Respondent is subject to discipline pursuant to Code section 4301(k), on the grounds
13 of unprofessional conduct, in that on or about September 17, 2012, and December 2, 2013,
14 Respondent was convicted of more than one misdemeanor or any felony involving the use,
15 consumption, and self administration of dangerous drugs and/or alcoholic, or any combination of
16 those substances, as more particularly set forth above in paragraph 9, subdivisions (a) and (b).

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Acts Involving Corruption)**

19 13. Respondent is subject to discipline pursuant to Code section 4301(f), on the grounds
20 of unprofessional conduct, in that on or about January 30, 2013, Respondent was under the
21 influence of a controlled substance, Methamphetamine, without a prescription, as more
22 particularly set forth above in paragraph 9, subdivision (b).

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(False Statement on Renewal Application)**

25 14. Respondent is subject to discipline pursuant to Code section 4301(g) and 4301(f), on
26 the grounds of unprofessional conduct, in that on or about March 13, 2013, Respondent
27 knowingly made or signed a certificate or document that falsely represented the existence or
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1 nonexistence of a state of facts by failing to disclose the conviction set forth above in paragraph
2 9, subdivision (a), by answering "No" to the following question on the renewal application:

3 Have you ever been convicted of any offense other than minor traffic
4 violations? If yes, explain fully as described in the applicant instructions.
5 Convictions must be reported even if they have been adjudicated, dismissed
6 or expunged or if a diversion program has been completed under the Penal
7 Code or Article 5 of the Vehicle Code. Traffic violations involving driving
8 under the influence, injury to persons or providing false information must be
9 reported. The definition of conviction includes a plea of nolo contendere (no
10 contest), as well as pleas or verdicts of guilty. YOU MUST INCLUDE
11 MISDEMEANOR AS WELL AS FELONY CONVICTIONS.

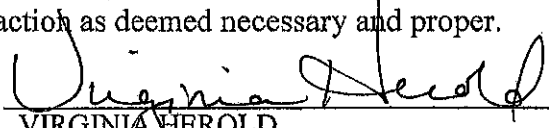
12 In fact, Respondent was convicted on September 17, 2012, for driving while under the
13 influence of alcohol, as more particularly set forth above in paragraph 9, subdivision (a).

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 63396,
18 issued to Sheli Dalane Wooten;
- 19 2. Ordering Sheli Dalane Wooten to pay the Board of Pharmacy the reasonable costs of
20 the 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 DATED: 9/14/14



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

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