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

12 In the Matter of the Accusation Against:

Case No. 5304

13 **ANTHONY ARNESS BENSON**  
327 Kiawah River Dr.  
Oxnard, CA 93036

**A C C U S A T I O N**

14 Pharmacy Technician Registration  
15 No. TCH 137836

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as  
21 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

22 2. On or about January 15, 2014, the Board issued Pharmacy Technician Registration  
23 No. TCH 137836 to Anthony Arness Benson (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on January 31, 2016, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following laws.

3 All section references are to the Business and Professions Code unless otherwise indicated.

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

6 5. Section 4300.1 states, in pertinent part:

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

12 **STATUTORY AND REGULATORY PROVISIONS**

13 6. Section 490 states, in pertinent part:

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

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

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

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1           7.     Section 4301 states, in pertinent part:

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

5           . . . .

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

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

24           "For the purpose of denial, suspension, or revocation of a personal or facility license  
25     pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
26     crime or act shall be considered substantially related to the qualifications, functions or duties of a  
27     licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
28

1 licensee or registrant to perform the functions authorized by his license or registration in a manner  
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

4 9. Section 125.3 states, in pertinent part, that the Board may request the administrative  
5 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
7 case.

8 **FIRST CAUSE FOR DISCIPLINE**

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

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

14 a. On or about, June 26, 2015, after pleading guilty, Respondent was convicted of one  
15 misdemeanor count of violating Penal Code section 273A, subdivision (a) [willful cruelty to child],  
16 one felony count of violating Penal Code section 245, subdivision (a)(1) [assault with a deadly  
17 weapon], and one felony count of violating Penal Code section 459 [first degree residential  
18 burglary] in the criminal proceeding entitled *The People of the State of California v. Anthony*  
19 *Arness Benson* (Super. Ct. Ventura County, 2015, No. 2014026013). The Court sentenced  
20 Respondent to serve 365 days in jail, ordered him to attend 52 sessions of domestic violence  
21 counseling, and placed him on 48 months formal probation, with terms and conditions.

22 b. The circumstances surrounding the conviction are that on or about August 23, 2014,  
23 Oxnard Police officers responded to a call of domestic violence. When the officers arrived,  
24 emergency personnel present at the scene advised officers that M.H. and her 14 year old daughter,  
25 A.H., required immediate medical attention. M.H. told officers that Respondent had been served  
26 with a temporary domestic violence restraining order the night before. This morning when M.H.  
27 opened the door to go to the backyard, Respondent grabbed her by the throat with both hands and  
28 told her, "I'm going to kill you." He dragged her inside the residence and slammed her head

1 against the tiled kitchen island. When the victim's daughter came in the kitchen and attempted to  
2 stop Respondent, he punched her in the face knocking her to the floor. Both victims had visible  
3 injuries.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration No. TCH 137836, issued  
8 to Anthony Arness Benson;
- 9 2. Ordering Anthony Arness Benson to pay the Board o the reasonable costs of the  
10 investigation and enforcement of this case, pursuant to section 125.3; and
- 11 3. Taking such other and further action as deemed necessary and proper.

12  
13  
14 DATED: \_\_\_\_\_

10/20/15



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

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