- 1			
1 2	KAMALA D. HARRIS Attorney General of California FRANK H. PACOE		
3	Supervising Deputy Attorney General JOSHUA A, ROOM		
4	Supervising Deputy Attorney General State Bar No. 214663		
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004	•	
6	Telephone: (415) 703-1299 Facsimile: (415) 703-5480		
7	Attorneys for Complainant		
	BEFORE THE		
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
9	STATE OF CALIFORY	NIA	
10	In the Matter of the Petition to Revoke Probation Against:	Case No. 5332	
12	RAMIRO CHRISTOPHER NAVA	PETITION TO REVOKE	
13	20 Canterbury Court Brentwood, CA 94513	PROBATION	
14	Pharmacy Technician License No. TCH 37457		
15	Respondent.		
16	Complainant alleges:		
17	<u>PARTIES</u>		
18	Virginia Herold (Complainant) brings this Petiti	on to Revoke Probation solely in her	
19	official capacity as the Executive Officer, Board of Pharmacy, Department of Consumer Affairs.		
20	2. On or about May 3, 2001, the Board of Pharmacy issued Pharmacy Technician		
21	License Number TCH 37457 to Ramiro Christopher Nava (Respondent). The License was in		
22	effect at all times relevant herein and will expire on February 28, 2015, unless renewed.		
23	3. In a disciplinary action titled "In the Matter of the	ne Accusation Against Ramiro	
24	Christopher Nava," Case No. 4924, the Board of Pharmacy issued a decision, effective May 28,		
25	2014, in which Respondent's Pharmacy Technician License was revoked. However, the		
26	revocation was stayed and Respondent's Pharmacy Technician License was placed on probation		
27	for a period of five (5) years with certain terms and conditions. A copy of that decision is		
28	attached as Exhibit A and is incorporated by reference.		

#### JURISDICTION AND STATUTORY PROVISIONS

- 4. This Petition to Revoke Probation 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 4011 of the Code 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.].
- 6. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
- 7. Section 4300.1 of the Code 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.

#### FIRST CAUSE TO REVOKE PROBATION

(Working As Technician While License Suspended)

8. At all times after the effective date (May 28, 2014) of the Decision and Order imposing probation on Respondent's License, Term and Condition 1 of that Order required that Respondent be suspended from working as a pharmacy technician until he is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the Board. Respondent has never submitted satisfactory proof of certification to the Board, and as a result his license has remained in suspended status since the onset of probation. On or about May 29, 2014, Respondent was sent notice that his license was in suspended status. Respondent continued to work as a pharmacy technician until on or about June 26, 2014. This failure to abide by the suspension of his license subjects Respondent's License to revocation.

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#### SECOND CAUSE TO REVOKE PROBATION

(Failure to Timely Pay Cost Recovery)

- 9. At all times after the effective date (May 28, 2014) of the Decision and Order imposing probation on Respondent's License, Term and Condition 10 of that Order required that Respondent pay the Board \$2,105.00 in cost recovery, on a payment plan approved by the Board, so long as full payment was made within fifty-four (54) months of the effective date, and so long as Respondent did not deviate from the approved schedule absent written Board approval.
- 10. On or about July 9, 2014, Respondent was instructed to make monthly payments of \$39.00 each month on or before the 20<sup>th</sup> of the month, with the first payment due July 20, 2014. Respondent has not made timely payments toward his cost recovery obligation. His failure to timely make cost recovery payments subjects Respondent's License to revocation.

#### THIRD CAUSE TO REVOKE PROBATION

(Failure to Timely Establish Prescription Coordinator/Monitor)

11. At all times after the effective date (May 28, 2014) of the Decision and Order imposing probation on Respondent's License, Term and Condition 16 of that Order required that within thirty (30) days of the effective date Respondent submit for approval the name of a medical professional (physician, nurse practitioner, physician's assistant, or psychiatrist) to serve as coordinator and monitor of any prescriptions for Respondent for dangerous drugs, controlled substances, or mood-altering drugs. Respondent failed to garner approval of any licensed medical professional to serve in this role. This failure to timely establish a medical professional to serve as prescription coordinator/monitor subjects Respondent's License to revocation.

#### FOURTH CAUSE TO REVOKE PROBATION

(Failure to Cooperate with Drug Testing)

12. At all times after the effective date (May 28, 2014) of the Decision and Order imposing probation on Respondent's License, Term and Condition 18 of that Order required Respondent to participate in random testing, including but not limited to biological fluid testing,

breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee, at Respondent's expense, for the entire probation period with the frequency of testing determined by the Board or its designee, required Respondent to fully cooperate with the Board or its designee and submit to testing as directed, and stated that any confirmed positive test for alcohol or any drug not lawfully prescribed as part of a documented medical treatment would be considered a violation of probation and would also result in Respondent's automatic suspension.

13. Respondent failed to fully participate in and/or cooperate with drug testing protocols established by the Board or its designee in that: Respondent failed to check in to determine if he was required to test on or about July 17, 29, and 31, and August 1-5, 2014; and Respondent failed to test (submit a sample) as required on or about July 15 and 23, 2014. This failure to fully participate in and/or cooperate with drug testing subjects Respondent's License to revocation.

#### FIFTH CAUSE TO REVOKE PROBATION

(Failure to Cooperate with Board Staff)

14. At all times after the effective date (May 28, 2014) of the Decision and Order imposing probation on Respondent's License, Term and Condition 5 of that Order required that Respondent cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent's compliance with terms and conditions of his probation. As detailed in paragraphs 8-13 above, Respondent failed to timely cooperate on one or more occasions. These failure(s) to timely cooperate as required subject Respondent's License to revocation.

#### OTHER MATTERS - EXTENSION OF PROBATION

15. At all times after the effective date (May 28, 2014) of the Decision and Order imposing probation on Respondent's License, Term and Condition 20 of that Order provided:

#### 20. Violation of Probation.

If respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other

### **Exhibit A**

Accusation

**Board of Pharmacy Case No. 4924** 

1	Kamala D. Harris		
2	Attorney General of California FRANK H. PACOE		
3	Supervising Deputy Attorney General JOSHUA A. ROOM		
4	Supervising Deputy Attorney General State Bar No. 214663		
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7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	STATE OF CE		
11	_In the Matter of the Accusation Against:	-Case-No. 4924	
12	RAMIRO CHRISTOPHER NAVA 20 Canterbury Court		
13	Brentwood, CA 94513	ACCUSATION	
14	Pharmacy Technician License No. TCH 37457		
15	Respondent.	·	
16	Complainant alleges:		
17	PART	IES	
18			
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
20		f Pharmacy issued Pharmacy Technician	
21	License No. TCH 37457 to Ramiro Christopher N		
22		,	
23	and effect at all times relevant to the charges brought herein and will expire on February 28,		
	2015, unless renewed.		
24			
25	JURISDI-	<del></del>	
26	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
27	Consumer Affairs, under the authority of the following laws. All section references are to the		
28	Business and Professions Code (Code) unless otherwise indicated.		
	<b>1</b>		

Accusation

the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances

Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

Section 4011 of the Code provides that the Board shall administer and enforce both

6. Section 4300.1 of the Code 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. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be 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.
- (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.
- 8. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of the license.

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 her license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

#### FIRST CAUSE FOR DISCIPLINE

 $(Conviction \ of \ Substantially \ Related \ Crime(s))$ 

- 11. Respondent is subject to discipline under section 4301(l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of substantially related crime(s), in that on or about December 4, 2006, in the criminal case *People v. Ramiro Christopher Nava*, Case No. 04-150677-3 in Contra Costa County Superior Court, Respondent was convicted of violating Vehicle Code section 23152(b) (Driving with Blood Alcohol of 0.08% or Higher), a misdemeanor. The conviction was entered as follows:
- a. On or about September 7, 2006, in *People v. Ramiro Christopher Nava*, Case No. 04-150677-3 in Contra Costa County Superior Court, based on an incident that was alleged to have taken place on or about April 14, 2006, Respondent was charged by Misdemeanor Complaint with violating (1) Vehicle Code section 23152, subdivision (a) (Driving Under Influence of Alcohol or Drugs), a misdemeanor; and (2) Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or Higher), a misdemeanor.

b. On or about December 4, 2006, Respondent entered a no contest plea and was found guilty of Count 2 (violation of Vehicle Code section 23152, subdivision (b)). Count 1 was dismissed pursuant to the plea. Imposition of sentence was suspended in favor of a period of court probation of three (3) years, on terms and conditions including two (2) days in jail, fines and fees, and completion of a Level 1 First Offender Drinking Driver Program.

#### SECOND CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime(s))

- 12. Respondent is subject to discipline under section 4301(l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of substantially related crime(s), in that on or about October 17, 2013, in the criminal case *People v. Ramiro Christopher Nava*, Case No. 04-177034-6 in Contra Costa County Superior Court, Respondent was convicted of violating Vehicle Code section 23152(a) (Driving Under Influence of Alcohol or Drugs), a misdemeanor. The conviction was entered as follows:
- a. On or about August 1, 2013, in *People v. Ramiro Christopher Nava*, Case No. 04-177034-6 in Contra Costa County Superior Court, based on an incident that was alleged to have taken place on or about January 12, 2013, Respondent was charged by Misdemeanor Complaint under (1) Vehicle Code section 23152, subdivision (a) (Driving Under Influence of Alcohol or Drugs), a misdemeanor, with a special allegation that he had been convicted of a prior offense under Vehicle Code section 23152, in 2006 (as described above), with a special allegation pursuant to Vehicle Code section 23578 that in the commission of this offense Respondent had a blood alcohol content of 0.15% or more, and with a further special allegation pursuant to Vehicle Code sections 23538(b)(2) and 23556(b)(4) that in the commission of this offense Respondent had a blood alcohol content of 0.20% or more; and (2) Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or Higher), a misdemeanor, with the same three special allegations as were made with regard to the first count of the Misdemeanor Complaint.

1	b. On or about October 17, 2013, Respondent entered a no contest plea and was		
2	found guilty of Count 1 (violation of Vehicle Code section 23152, subdivision (a)). He admitted		
3	to the special allegation of the prior (2006) conviction. Count 2 and all other special allegations		
4	were dismissed pursuant to the plea. Imposition of sentence was suspended in favor of a period		
5	of court probation of four (4) years, on terms and conditions including thirty (30) days in jail,		
6	search conditions, alcohol testing as required by Court Probation Officer(s), fines and fees, and		
7	completion of a Post-Conviction Drinking Driver's Program.		
8			
9			
10			
11	THIRD CAUSE FOR DISCIPLINE		
12	(Dangerous or Injurious Use of Alcohol)		
13	13. Respondent is subject to discipline under section 4301(h) of the Code, in that, as		
14	described in paragraphs 11 and 12, Respondent used alcohol in a dangerous or injurious manner.		
15			
16			
17			
18	FOURTH CAUSE FOR DISCIPLINE		
19	(Conviction of Crimes Involving Use of Alcohol)		
20	14. Respondent is subject to discipline under section 4301(k) of the Code, in that, as		
21	described in paragraphs 11 and 12, Respondent was convicted of crimes involving use of alcohol.		
22			
23			
24			
25	<u>FIFTH CAUSE FOR DISCIPLINE</u>		
26	(Unprofessional Conduct)		
27	15. Respondent is subject to discipline under section 4301 of the Code in that, as		
28	described in paragraphs 11 to 14, Respondent engaged in unprofessional conduct.		
	5		

#### **PRAYER**

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

- 1. Revoking or suspending Pharmacy Technician License No. TCH 37457, issued to Ramiro Christopher Nava (Respondent);
- 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as is deemed necessary and proper.

DATED: 2/19/14

VIRGINIA HEROLD
Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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