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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. 5446

13 **CATHERINE VENEGAS**

ACCUSATION

14 4092 W. 129th St.
Hawthorne, CA 90250

15 Pharmacy Technician Registration
No. TCH 109197

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 December 15, 2010, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 109197 to Catherine Venegas (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 August 31, 2016, unless renewed.

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STATUTORY PROVISIONS

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2 3. 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 4. Section 493 states:

18 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
19 the department pursuant to law to deny an application for a license or to suspend or revoke a
20 license or otherwise take disciplinary action against a person who holds a license, upon the
21 ground that the applicant or the licensee has been convicted of a crime substantially related to the
22 qualifications, functions, and duties of the licensee in question, the record of conviction of the
23 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
24 and the board may inquire into the circumstances surrounding the commission of the crime in
25 order to fix the degree of discipline or to determine if the conviction is substantially related to the
26 qualifications, functions, and duties of the licensee in question. As used in this section, "license"
27 includes "certificate," "permit," "authority," and "registration."

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1 5. Section 4060 provides in pertinent part, that no person shall possess any controlled
2 substance, except that furnished to a person upon the prescription of a physician, dentist,
3 podiatrist, optometrist, veterinarian, or other authorized prescriber.

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

6 7. Section 4300.1 states:

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

12 8. Section 4301 states, in pertinent part:

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

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

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20 “(h) The administering to oneself, of any controlled substance, or the use of any
21 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
22 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
23 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
24 the public the practice authorized by the license.

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

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1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

3 **CONTROLLED SUBSTANCE**

4 11. "Alprazolam," is the generic name for Xanax. It is a Schedule IV controlled
5 substance as designated by Health and Safety Code section 11057, subdivision (d) and is
6 categorized as a dangerous drug pursuant to section 4022.

7 12. "Marijuana," is a Schedule I controlled substance as designated by Health and Safety
8 Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to
9 section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

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

12 13. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
13 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
14 Respondent has been convicted of a crime substantially related to the qualifications, functions or
15 duties of a pharmacy technician. On or about August 4, 2014, Respondent was convicted of one
16 misdemeanor count of violating Vehicle Code section 23103.5 [reckless driving: involving
17 alcohol] in the criminal proceeding entitled *The People of the State of California v. Catherine*
18 *Venegas* (Super. Ct. L.A. County, 2014, No. 4IG01550). The court placed Respondent on 36
19 months probation, with terms and conditions. The circumstances surrounding the conviction are
20 that on or about March 6, 2014, during a traffic enforcement stop, an officer detected an odor of
21 an alcoholic beverage emitting from Respondent. She was observed to have a horizontal gaze
22 nystagmus. Respondent admitted that she consumed two beers (Coronas). She did not perform
23 the standard Field Sobriety Tests (F.S.T.), as demonstrated and explained by the officer. As she
24 was being arrested, Respondent admitted that she possessed Xanax in her car. A search of
25 Respondent's vehicle revealed a purple pill container, with no label, containing multiple pills
26 marked "GG249," later identified as Alprazolam and less than one ounce of Marijuana. During
27 the booking procedure, Respondent submitted to a blood test that resulted in a blood-alcohol
28 concentration level of 0.10%.

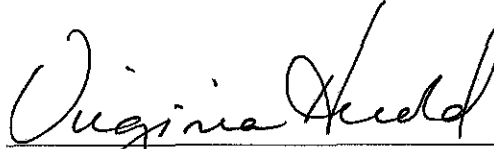
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2. Ordering Catherine Venegas to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: _____

9/21/15



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

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