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

11 In the Matter of the Accusation Against:

Case No. 5498

12 **MATTHEW RYAN SALANGA**
13 **BUMANGLAG**
14 **10665 Lynn Circle**
Cypress, CA 90630

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 128259**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about December 31, 2012, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 128259 to Matthew Ryan Salanga Bumanglag (Respondent). The
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on December 31, 2016, unless renewed.

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JURISDICTION

3. This Accusation 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.

4. Section 4300, subdivision (a) of the Code states: "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code 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.

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STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 492 of the Code states:

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

1 This section shall not be construed to apply to any drug diversion program operated
2 by any agency established under Division 2 (commencing with Section 500) of this code,
or any initiative act referred to in that division.

3 9. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted by a board
5 within the department pursuant to law to deny an application for a license or to suspend
6 or revoke a license or otherwise take disciplinary action against a person who holds a
7 license, upon the ground that the applicant or the licensee has been convicted of a crime
8 substantially related to the qualifications, functions, and duties of the licensee in question,
9 the record of conviction of the crime shall be conclusive evidence of the fact that the
conviction occurred, but only of that fact, and the board may inquire into the
circumstances surrounding the commission of the crime in order to fix the degree of
discipline or to determine if the conviction is substantially related to the qualifications,
functions, and duties of the licensee in question.

10 As used in this section, "license" includes "certificate," "permit," "authority," and
"registration."

11 10. Section 4022 of the Code states

12 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
13 self-use in humans or animals, and includes the following:

14 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

15 (b) Any device that bears the statement: "Caution: federal law restricts this device
16 to sale by or on the order of a _____," "Rx only," or words of similar import, the
17 blank to be filled in with the designation of the practitioner licensed to use or order use of
the device.

18 (c) Any other drug or device that by federal or state law can be lawfully dispensed
only on prescription or furnished pursuant to Section 4006.

19 11. Section 4301 of the Code states:

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

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24 (h) The administering to oneself, of any controlled substance, or the use of any
25 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
26 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.

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28 (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.

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(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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REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1769, states:

....

(b) When considering the suspension or revocation of a facility or a personal License on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

13. 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.

1 **COSTS**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **DRUG**

9 15. Ecstasy, the street name for 3,4-methylenedioxymethamphetamine (MDMA), is a
10 Schedule I controlled substance pursuant to California Health and Safety Code section
11 11054(d)(4), and is classified as a dangerous drug pursuant to Business and Professions Code
12 section 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(January 27, 2015 Criminal Conviction for Alcohol-Related Reckless Driving on May 24, 2014)**

15 16. Respondent has subjected his registration to disciplinary action under sections 490 and
16 4301(I) in that he was convicted of a crime that is substantially related to the qualifications, duties,
17 and functions of a pharmacy technician. The circumstances are as follows:

18 a. On or about October 21, 2014, in a criminal proceeding entitled *People of the*
19 *State of California v. Matthew Ryan Salanga, aka Matthew Ryan Salangabumanglag, aka*
20 *Matthew R. Salangabumanglag*, in Orange County Superior Court, case number 14WF2364,
21 Respondent pled guilty to violating Health and Safety Code section 11377(a), possession of
22 Ecstasy (MDMA), a felony. As a result of the plea, the court deferred entry of judgment and
23 Respondent was directed to enroll in a drug program pursuant to Penal Code section 1000. The
24 court severed the proceedings from the remaining charges. At a hearing on January 8, 2015, the
25 court reduced the Health and Safety Code section 11377(a) charge to a misdemeanor.

26 b. On or about January 27, 2015, the court convened on the remaining charges.
27 Respondent pled guilty to violating Vehicle Code section 23103(a), alcohol-related reckless
28 driving, a misdemeanor count added to the amended complaint by interlineation, which dismissed

1 the original charges of driving under the influence of alcohol/drugs (Veh. Code, § 23152(a)), and
2 driving under the influence of drugs (Veh. Code, § 23152(e)), pursuant to Vehicle Code section
3 23103.5.

4 c. As a result of the conviction, Respondent was granted informal probation for
5 three years, and ordered to attend a 12-hour Alcohol and Drug Program and a MADD Victim
6 Impact Panel session, pay fees and fines, and comply with probation terms.

7 d. The facts that led to the conviction are that at 3:15 a.m., on or about May 24,
8 2014, a California Highway Patrol (CHP) officer was finishing a prior enforcement stop when he
9 observed Respondent drive by in a vehicle with an expired registration. The CHP officer followed
10 Respondent and activated his emergency lights to signal Respondent to pull over. Using the public
11 address system, the CHP officer directed Respondent multiple times to pull over. The CHP officer
12 used his patrol vehicle's siren, and Respondent eventually stopped after he was told several times
13 to pull over. Upon contact with Respondent, the CHP officer observed the odor of alcohol
14 emitting from within the vehicle. Respondent admitted to consuming alcohol earlier in the
15 evening. After exiting his vehicle, the CHP officer detected a distinct odor of alcohol on
16 Respondent's breath and person. Respondent was unsteady on his feet, his eyes were red and
17 watery, and his speech was slow. Respondent submitted to a series of field sobriety tests which he
18 was unable to complete as explained and demonstrated by the CHP officer. Based on his objective
19 symptoms of intoxication and performance on the field sobriety tests, Respondent was arrested for
20 driving under the influence. While performing a search of Respondent, the CHP officer located a
21 baggie with two pills inside Respondent's left front pocket. Respondent told the CHP officer that
22 the pills might be Ecstasy. Respondent was transported to the CHP station in Santa Ana where he
23 provided two breath samples which were analyzed with a blood alcohol concentration of .07
24 percent. The two pills were subsequently identified as MDMA (Ecstasy).

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Dangerous Use of Alcohol)**

27 17. Respondent has subjected his registration to disciplinary action under section 4301(h)
28 of the Code for unprofessional conduct in that on or about May 24, 2014, Respondent operated a

1 motor vehicle in a manner as to be dangerous or injurious to himself, or to any other person or to
2 the public, in that he was impaired by alcohol, as described in paragraph 16, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violation of California Statutes Regulating Controlled Substances)**

5 18. Respondent has subjected his registration to discipline under section 4301(j) of the
6 Code for unprofessional conduct in that he illegally possessed, and plead guilty to possessing, the
7 controlled substance 3,4-methylenedioxymethamphetamine (MDMA) on May 24, 2014, as
8 described in paragraph 16, above. Said conduct is a violation of Health and Safety Code section
9 11377(a).

10 **PRAAYER**

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

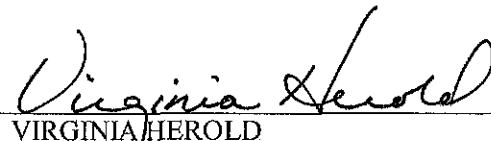
13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 128259,
14 issued to Matthew Ryan Salanga Bumanglag;

15 2. Ordering Matthew Ryan Salanga Bumanglag to pay the Board of Pharmacy the
16 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
17 Professions Code section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.
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21 DATED: _____

9/5/15



22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant
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