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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. 5532

12 **LEANNE M. DE LONG**
13 **515 S. Meyler St., #17**
San Pedro, CA 90731

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **58855**

Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 29, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 58855 to Leanne M. De Long (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on June 30, 2016, unless renewed.

25 **JURISDICTION**

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 unless otherwise indicated.

1 4. Section 4300 provides that every license issued by the Boards is subject to discipline,
2 including suspension or revocation.

3 5. Section 4300.1 of the Code states:

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

9 **STATUTORY PROVISIONS**

10 6. Section 490 of the Code states, in pertinent part, that:

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

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

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

25 7. Section 493 of the Code states:

26 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
27 the department pursuant to law to deny an application for a license or to suspend or revoke a
28 license or otherwise take disciplinary action against a person who holds a license, upon the ground

1 that the applicant or the licensee has been convicted of a crime substantially related to the
2 qualifications, functions, and duties of the licensee in question, the record of conviction of the
3 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
4 and the board may inquire into the circumstances surrounding the commission of the crime in order
5 to fix the degree of discipline or to determine if the conviction is substantially related to the
6 qualifications, functions, and duties of the licensee in question.

7 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
8 'registration.'"

9 8. Section 4301 of the Code states, in pertinent part, that:

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

13

14 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
15 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
16 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
17 to the extent that the use impairs the ability of the person to conduct with safety to the public the
18 practice authorized by the license.

19

20 "(k) The conviction of more than one misdemeanor or any felony involving the use,
21 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
22 combination of those substances.

23 "(l) The conviction of a crime substantially related to the qualifications, functions, and duties
24 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
26 substances or of a violation of the statutes of this state regulating controlled substances or
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
28 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1 The board may inquire into the circumstances surrounding the commission of the crime, in order to
2 fix the degree of discipline or, in the case of a conviction not involving controlled substances or
3 dangerous drugs, to determine if the conviction is of an offense substantially related to the
4 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
5 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
6 of this provision. The board may take action when the time for appeal has elapsed, or the
7 judgment of conviction has been affirmed on appeal or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
9 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
10 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
11 indictment. . . .”

12 REGULATORY PROVISIONS

13 9. California Code of Regulations, title 16, section 1770, states:

14 “For the purpose of denial, suspension, or revocation of a personal or facility license
15 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
16 crime or act shall be considered substantially related to the qualifications, functions or duties of a
17 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
18 licensee or registrant to perform the functions authorized by his license or registration in a manner
19 consistent with the public health, safety, or welfare.”

20 COST RECOVERY

21 10. Section 125.3 provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
25 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
26 included in a stipulated settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Substantially Related Crimes)**

3 11. Respondent is subject to disciplinary action under Sections 490, 493, 4300, and 4301,
4 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct in that Respondent was convicted of crimes substantially
6 related to the qualifications, functions or duties of a registrant, which to a substantial degree
7 evidences her present or potential unfitness to perform the functions authorized by her license in a
8 manner consistent with the public health, safety, or welfare, as follows:

9 a. On or around March 9, 2006, Respondent pled nolo contendere to one
10 misdemeanor count of violating Vehicle Code section 23152(b) [driving while under the influence
11 of alcohol, blood alcohol content of 0.08% or more] in a criminal matter entitled *The People of the*
12 *State of California v. Leanne Marie Delong* (Los Angeles Superior Court, 2006, Case No.
13 6MP02432). The facts and circumstances underlying the conviction are that, on or around
14 February 12, 2006, Respondent drove a motor vehicle with a blood alcohol content of 0.16%.

15 b. On or around March 17, 2015, Respondent pled nolo contendere to one
16 misdemeanor count of violating Vehicle Code section 23152(b) [driving while under the influence
17 of alcohol, blood alcohol content of 0.08% or more] in a criminal matter entitled *The People of the*
18 *State of California v. Leanne Marie Delong* (Los Angeles Superior Court, 2015, Case No.
19 5SY00469). The facts and circumstances underlying the conviction are that, on or around
20 December 18, 2014, Respondent drove a motor vehicle with a blood alcohol content of 0.27%.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of Alcohol)**

23 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that
24 Respondent used alcoholic beverages to the extent or in a manner as to be dangerous or injurious
25 to herself, another person, or to the public when she drove a motor vehicle with a blood alcohol
26 content of 0.16% on February 12, 2006, and 0.27% on December 18, 2014. Complainant refers
27 to, and by this reference incorporates, the allegations set forth above in paragraph 11,
28 subparagraphs a and b, as though set forth fully

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Multiple Convictions Involving Alcohol)**

3 13. Respondent is subject to disciplinary action under section 4301, subdivision (k), on the
4 grounds of unprofessional conduct in that, Respondent has been convicted of more than one
5 misdemeanor involving the use or consumption of alcohol. Complainant refers to, and by this
6 reference incorporates, the allegations set forth above in paragraph 11, subparagraphs a and b, as
7 though set forth fully

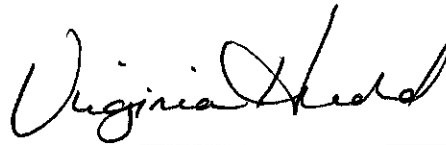
8 **PRAAYER**

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

- 11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 58855,
12 issued to Leanne M. De Long;
- 13 2. Ordering Leanne M. De Long to pay the Board of Pharmacy the reasonable costs of
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18
19 DATED: _____

5/3/16



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

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