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8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
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11	L 1 M 4 C1 - A		
12	In the Matter of the Accusation Against: Case No. 5608		
13	LISA ANN HASENBERG 3110 Jefferson Street C Carlsbad, CA 92008 A C C U S A T I O N		
14	Pharmacy Technician Registration No. TCH 77620		
15	Respondent.		
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17	Complainant alleges:		
18	PARTIES		
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official		
20	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On August 10, 2007, the Board of Pharmacy issued Pharmacy Technician		
22	Registration Number TCH 77620 to Lisa Ann Hasenberg (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 November 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.		
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4. Section 4300, subdivision (a), of the Code provides that every license issued by the Board 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.

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

8. Section 4301 of the Code states:

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

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(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.

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

(p) Actions or conduct that would have warranted denial of a license.

9. Section 4327 of the Code states:

Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

REGULATORY PROVISIONS

10. 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.

COST RECOVERY

11. 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 or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Dangerous Use of Alcohol)

12. Respondent has subjected her Pharmacy Technician Registration to discipline under Code section 4301, subdivision (h) in that Respondent used alcohol to the extent and in a manner that impaired her ability to conduct with safety to the public the practice authorized by her pharmacy technician registration. The circumstances are that on March 26, 2015, while under the influence of alcohol, Respondent reported for work as a registered pharmacy technician at a Costco pharmacy in Carlsbad, California. After observing Respondent to be under the influence of alcohol, her employer sent a laboratory technician to conduct a chemical test. Respondent's two breath samples, taken 17 minutes apart, both indicated a blood alcohol concentration (BAC) of .234 percent.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Violation of Pharmacy Laws)

13. Respondent has subjected her Pharmacy Technician Registration to discipline under Code section 4301, subdivision (o), in that Respondent was under the influence of alcoholic beverages while on duty and selling or dispensing drugs on March 26, 2015, at a retail pharmacy, in violation of Code section 4327, a state law of California governing pharmacy.

THIRD CAUSE FOR DISCIPLINE

(Conduct That Would Have Warranted Denial of a License)

14. Respondent has subjected her Pharmacy Technician Registration to discipline under Code section 4301, subdivision (p), in that on March 26, 2015, Respondent used alcohol to the extent and in a manner that impaired her ability to conduct with safety to the public, a violation of pharmacy law and conduct that would have warranted the denial of a pharmacy technician registration under Code section 480, subdivision (a)(1).

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: