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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. 5744

13 **ANDREA J. MEDINA**
18323 Soledad Canyon Rd., #25
14 Canyon Country, CA 91387

A C C U S A T I O N

15 Pharmacy Technician Registration
No. TCH 107518

16
17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20
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 November 18, 2010, the Board of Pharmacy issued Pharmacy Technician
24 Registration No. TCH 107518 to Andrea J. Medina (Respondent). The Pharmacy Technician
25 Registration expired on July 31, 2014, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 **STATUTORY PROVISIONS**

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

4 5. Section 4300.1 states:

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

11 6. Section 4301 states, in pertinent part:

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

16 . . .

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

22 . . .

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

27 **REGULATORY PROVISION**

28 7. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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.

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1 **COST RECOVERY**

2 8. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licensee found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Dangerous Use of Alcohol)**

8 9. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
9 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent used
10 alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself, another
11 person, or the public. On or about May 21, 2015, during an investigation of a drunk person, an
12 officer observed Respondent seated at a table with her head lying on the table top. Respondent
13 lifted her head and stated, "What the f..k you want?" The officer asked her to stand up in order to
14 escort her out of the business, but she failed to acknowledge the officer's request. The officer
15 asked her a second time, which she did with great difficulty, stumbled, and needed to hold onto the
16 table to keep from falling. She had a strong odor of an alcoholic beverage on her breath and
17 person. Respondent was unable to provide for her safety or the safety of others and was
18 subsequently arrested, in violation of Penal Code section 647, subdivision (f) [public intoxication].

19
20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Violating Provisions of the Pharmacy Practice Act)**

22 10. Respondent is subject to disciplinary action under section 4301, subdivision (o) for
23 violating provisions of the Pharmacy Practice Act. Complainant refers to, and by this reference
24 incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

25 **DISCIPLINARY CONSIDERATIONS**

26 11. In order to determine the degree of discipline, if any to be imposed on Respondent,
27 Complainant alleges the following:

1 a. On or about November 21, 2013, the Board issued Citation and Fine No. CI 2013
2 57925 to Respondent for violating section 4301, subdivisions (h), (k), and (l), resulting in the
3 issuance of a \$750.00 fine. Respondent has not complied with the Citation. Specifically, on or
4 about July 1, 2013, Respondent was convicted of one misdemeanor count of violating Vehicle
5 Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight of alcohol, in
6 her blood] in the criminal proceeding entitled *The People of the State of California v. Andrea J.*
7 *Medina* (Super. Ct. L.A. County, 2013, No. 3NW00702). The court sentenced Respondent to
8 serve 30 days in jail and placed her on 60 months probation, with terms and conditions. The
9 circumstances surrounding the conviction are that on or about February 12, 2013, during a traffic
10 collision investigation of an overturned vehicle, an officer observed Respondent to have a strong
11 odor of an alcoholic beverage coming from her breath. She had red watery eyes and a slow
12 speech. Respondent admitted that she drank 2 sips of Moon Shine. Respondent failed to perform
13 the standard Field Sobriety Tests (F.S.T.), as explained and demonstrated by the officer. During
14 the booking procedure, Respondent submitted to a blood test that resulted in a blood-alcohol
15 concentration level of 0.09%.

16 b. On or about June 13, 2013, the Board issued Citation and Fine No. CI 2010 47518 to
17 Respondent for violating section 4301, subdivisions (h) and (l), resulting in the issuance of a
18 \$500.00 fine. Respondent has complied with the Citation. Specifically, on or about March 24,
19 2011, Respondent was convicted of one misdemeanor count of violating Vehicle Code section
20 23152, subdivision (b) [driving while having 0.08% or more, by weight of alcohol, in her blood] in
21 the criminal proceeding entitled *The People of the State of California v. Andrea J. Medina* (Super.
22 Ct. L.A. County, 2011, No. 1NW01417). The court placed Respondent on 36 months probation,
23 with terms and conditions. The circumstances surrounding the conviction are that on or about
24 February 25, 2011, during a traffic collision investigation of a truck high-sided on a tree trunk, an
25 officer observed Respondent to have a strong odor of an alcoholic beverage emitting from her
26 breath and person. She was slurring her words. Respondent admitted that she drank one glass of
27 Vodka with orange juice. Respondent did not perform the standard Field Sobriety Tests (F.S.T.),
28 as explained and demonstrated by the officer. While at the scene, Respondent submitted to a

1 Preliminary Alcohol Screening (PAS) test, which resulted in a breath-alcohol concentration level
2 of 0.22% on the first and second reading.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 107518, issued
7 to Andrea J. Medina;
- 8 2. Ordering Andrea J. Medina to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3; and
- 11 3. Taking such other and further action as deemed necessary and proper.

12
13
14 DATED: _____

6/10/16



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

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