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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **SHANNON NICOLE LUNDQUIST** **P.O. Box 736** **Silverado, CA 92676** **Pharmacy Technician Registration No. TCH 40151** Respondent.	Case No. 5778 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On November 16, 2001, the Board issued Pharmacy Technician Registration Number TCH 40151 to Shannon Nicole Lundquist (Respondent). Respondent has also been known as Shannon Nichole Lundquist. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein, and will expire on September 30, 2017, unless renewed.

JURISDICTION

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

4. Code section 4300, subdivision (a) provides that every license issued by the Board may be suspended or revoked.

5. Code section 4300.1 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. Code section 482 states:

> Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
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> (a) Considering the denial of a license by the board under Section 480; or
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> (b) Considering suspension or revocation of a license under Section 490.
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> Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Code section 4301 states, in pertinent part:

> 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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> . . .
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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.
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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.

. . . .

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1769 states, in pertinent part:

. . .

(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.

9. 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

10. Code section 125.3 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.

FIRST CAUSE FOR DISCIPLINE

(September 24, 2014 Conviction for Driving Under the Influence on June 26, 2014)

11. Respondent has subjected her Pharmacy Technician Registration to discipline under Code sections 490 and 4301, subdivision (l), in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered pharmacy technician. The circumstances are as follows:

a. On September 24, 2014, in a criminal proceeding entitled *The People of the State of Nevada, Plaintiff, vs. Shannon Nichole Lundquist, Defendant*, in the East Fork Justice Court, Douglas County, Case Number 14-CR-0647, Respondent was convicted on her plea of guilty of violating Nevada Revised Statutes (NRS) section 484C.110, subdivisions (1)(a), being under the influence of intoxicating liquor; (1)(b), had a concentration of alcohol (BAC) of 0.08 percent or more in her blood or breath; and/or (1)(c), having a BAC of .08 percent or more, within two hours after driving or being in actual physical control of a vehicle; and Douglas County Code (DCC) section 10.04.030, a misdemeanor. A misdemeanor charge for violation of NRS section 484B.600, subdivision (1)(c), and DCC section 10.04.030, speeding 11 to 20 miles per hour over the speed limit, was dismissed under a plea bargain.

b. As a result of the conviction, on December 8, 2014, Respondent was sentenced to serve 62 days in the Douglas County Jail, with credit for two days served, and the balance of 60 days suspended for one year under standard alcohol conditions. Respondent was ordered to attend and complete a level two substance abuse counseling program and a State-approved DUI school program, complete 48 hours of successful community service, and attend a

Victim Impact Panel presentation. Respondent was also ordered to install an ignition interlock device for a period of one year.

c. The facts that led to the conviction are that on June 26, 2014, Respondent drove her vehicle at 75 miles per hour in a 55 miles per hour zone on US 395 expressway in Carson City, Nevada. An officer from the Nevada Highway Patrol (NHP) monitoring the speed of passing vehicles obtained Respondent speed, which registered 20 miles per hour over the speed limit. The officer initiated an enforcement stop. Upon contact with Respondent, the officer smelled alcohol coming from Respondent's person. Respondent's eyes were bloodshot, glassy, and watery. Respondent's speech was slurred. Respondent failed to perform a series of field sobriety tests as explained and demonstrated. Respondent was subsequently arrested and transported to the Nevada County Minden jail, where she provided one deficient and two good breath samples, which tested a BAC of .300 percent and .283 percent.

SECOND 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 on June 26, 2014, she used alcohol to the extent and in a manner that was dangerous and injurious to herself and to the public, as described in paragraph 11, above, which is incorporated here by this reference.

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:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 40151, issued to Shannon Nicole Lundquist;

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2. Ordering Shannon Nicole Lundquist 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: 6/10/16

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

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