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

In the Matter of the Accusation Against: **ALYSSA MICHELLE HAMLIN** **830 Via Castana Court** **Morgan Hill, CA 95037** **Pharmacy Technician Registration No. TCH 124537** Respondent.	Case No. 5831 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about September 20, 2012, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 124537 to Alyssa Michelle Hamlin (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2018, 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 unless otherwise indicated.

4. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

. . .

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

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 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:

. . .

"(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.

. . .

"(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.

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

. . .

"(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.

. . .

" (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.

. . . "

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. 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

9. Section 125.3 of the Code states, 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.

FIRST CAUSE FOR DISCIPLINE

(SUBSTANTIALLY RELATED CRIMINAL CONVICTION)

10. Respondent is subject to discipline under the following section(s) of the Code: 490 and/or 4301(l), and California Code of Regulations, title 16, section 1770, for conviction of a substantially related crime, in that on or about May 16, 2016, Respondent was convicted in *People of the State of California v. Alyssa Michelle Hamlin*, Case No. F1558323 in Santa Clara County Superior Court of violating Vehicle Code sections 23152(b) (driving with blood alcohol level in excess of .08%), a misdemeanor. Respondent was sentenced to serve 45 days in county jail, and three years probation. The circumstances of the conviction are that on or about September 6, 2015, Respondent collided with the back of another vehicle while driving on Highway 101 in Morgan Hill, California. The vehicles were driving approximately 65 miles per hour, and Respondent's vehicle ran the other vehicle off the road. Respondent failed field sobriety tests and was uncooperative with arresting officers. Her blood alcohol measured .239%.

SECOND CAUSE FOR DISCIPLINE

(USING ALCOHOL IN A MANNER DANGEROUS TO SELF OR OTHERS)

11. Respondent is subject to discipline under the following section(s) of the Code: 4301(h), in that she used alcohol in a manner dangerous to herself or others, as alleged above in paragraph 10.

THIRD CAUSE FOR DISCIPLINE

(VIOLATION OF STATUTES OF THIS STATE)

12. Respondent is subject to discipline under the following section(s) of the Code: 4301(j), in that she violated statutes of this state as alleged herein.

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FOURTH CAUSE FOR DISCIPLINE

(MORE THAN ONE ALCOHOL RELATED MISDEMEANOR CONVICTIONS)

13. Respondent is subject to discipline under the following section(s) of the Code: 4301(k), in that she had two alcohol related misdemeanor convictions, as alleged above in paragraph 10, and below in Discipline Considerations.

FIFTH CAUSE FOR DISCIPLINE

(VIOLATING PHARMACY LAWS AND REGULATIONS)

14. Respondent is subject to discipline under the following section(s) of the Code: 4301(o), in that she violated, or attempted to violate, directly or indirectly, applicable state laws and regulations governing pharmacy, as alleged above.

DISCIPLINE CONSIDERATIONS

15. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about June 21, 2013, in a prior action, the Board of Pharmacy issued Citation Number CI 2012 56022 against Respondent and ordered her to pay a fine in the amount of $800.00. The Citation resulted from Respondent's 2013 conviction for violating Vehicle Code section 23152(b) (driving with blood alcohol level in excess of .08%). That Citation is now final and is incorporated by reference as if fully set forth.

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 124537, issued to Alyssa Michelle Hamlin;

2. Ordering Alyssa Michelle Hamlin 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;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 7/8/16

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

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