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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 5840

12 **SHANNON MARIE GUY**
13 **112 Clearbrook Lane, Apt. A**
14 **Costa Mesa, CA 92626**

ACCUSATION

15 **Pharmacy Technician Registration No.**
TCH 126605

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about November 26, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 126605 to Shannon Marie Guy (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on December 31, 2017, unless renewed.
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1 **JURISDICTION**

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

5 4. Section 4300(a) of the Code states "Every license issued may be suspended or
6 revoked."

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to evaluate the
15 rehabilitation of a person when:

16 (a) Considering the denial of a license by the board under Section 480; or

17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
21 revoke a license on the ground that the licensee has been convicted of a crime substantially
22 related to the qualifications, functions, or duties of the business or profession for which the
23 license was issued.

24 8. Section 493 of the Code states:

25 Notwithstanding any other provision of law, in a proceeding conducted by a board
26 within the department pursuant to law to deny an application for a license or to suspend
27 or revoke a license or otherwise take disciplinary action against a person who holds a
28 license, upon the ground that the applicant or the licensee has been convicted of a crime
substantially related to the qualifications, functions, and duties of the licensee in
question, the record of conviction of the crime shall be conclusive evidence of the fact
that the conviction occurred, but only of that fact, and the board may inquire into the
circumstances surrounding the commission of the crime in order to fix the degree of

1 discipline or to determine if the conviction is substantially related to the qualifications,
functions, and duties of the licensee in question.

2 As used in this section, "license" includes "certificate," "permit," "authority," and
3 "registration."

4 9. Section 4301 of the Code states:

5 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
6 or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of
the following:

7

8 (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
9 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
10 conduct with safety to the public the practice authorized by the license.

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12 (i) 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
13 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
14 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
15 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
16 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,
17 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
18 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
19 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
20 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. . . .

21 **REGULATORY PROVISIONS**

22 10. California Code of Regulations, title 16, section 1769, subdivision (b) states:

23 (b) When considering the suspension or revocation of a facility or a personal
24 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
25 license will consider the following criteria:

26 (1) Nature and severity of the act(s) or offense(s).

27 (2) Total criminal record.

28 (3) The time that has elapsed since commission of the act(s) or offense(s).

1 (4) Whether the licensee has complied with all terms of parole, probation,
2 restitution or any other sanctions lawfully imposed against the licensee.

3 (5) Evidence, if any, of rehabilitation submitted by the licensee.

4 11. California Code of Regulations, title 16, section 1770, states:

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

12 COSTS

13 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
17 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
18 may be included in a stipulated settlement.

19 FACTUAL ALLEGATIONS

20 13. On March 19, 2015, the California Highway Patrol received reports that Respondent
21 was driving her vehicle erratically on the 91 freeway. At approximately 22:16 on March 19,
22 2015, a California Highway Patrol Officer was dispatched to investigate a possible collision on
23 the southbound 57 off ramp to Lincoln Avenue in Orange County, California. The officer
24 observed a disabled vehicle stuck in the foliage to the left of the off ramp and observed
25 Respondent walking on the right shoulder. Respondent admitted to the officer that she dozed off
26 while driving and drove off the off ramp. She also admitted to him that she had taken Xanax and
27 Suboxone. The officer observed that Respondent's eyes were red and watery, she was unsteady
28 on her feet and her speech was thick and slurred. Respondent submitted to a series of field
sobriety tests which she was unable to complete as explained and demonstrated by the officer.
She underwent a drug screen which was positive for the presence of Xanax. Respondent was
arrested for driving under the influence of drugs.

1 14. On February 9, 2016, Respondent engaged in loud verbal fights and erratic behavior
2 which disturbed other tenants at her apartment complex. While naked, she chased her fiancé
3 outside of their apartment. After her fiancé exited their apartment with bite marks on his arms,
4 the apartment manager contacted the police to report the incident.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(March 28, 2016 Criminal Conviction for DUI on March 19, 2015)**

7 15. Respondent has subjected her registration to discipline under sections 490 and
8 4301(1) of the Code in that she was convicted of a crime that is substantially related to the
9 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows
10 and as set forth in paragraph 13:

11 a. On March 28, 2016, in a criminal proceeding entitled *The People of the State of*
12 *California v. Shannon Marie Guy*, in Orange County Superior Court, case number 15NM12174,
13 Respondent was convicted on her plea of guilty to violating Vehicle Code section 23152(e),
14 driving under the influence of drugs with one prior conviction, a misdemeanor. Respondent
15 admitted that “on March 19, 2015, I unlawfully drove a motor vehicle while under the influence
16 of drugs, including alprazolam, tramadol, cyclobenzapine and sertraline. I also had a prior
17 conviction for 23152(a) and (b), driving under the influence and with a BAC over 0.8 within 10
18 years.”

19 b. As a result of the conviction, Respondent was ordered to serve 60 days in jail
20 and granted summary probation for five years. Respondent was ordered to attend and complete a
21 multiple offender program and comply with the DUI probation terms.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Dangerous Use of Drugs)**

24 16. Respondent has subjected her registration to disciplinary action under section 4301(h)
25 of the Code for unprofessional conduct in that on or about March 19, 2015, as described in
26 paragraphs 13 and 15, above, Respondent operated a motor vehicle while significantly impaired
27 by drugs.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 17. Respondent has subjected her registration to disciplinary action under section 4301 of
4 the Code for unprofessional conduct in that she engaged in the activities described in paragraphs
5 13-15 above, which are incorporated herein by reference.

6 **DISCIPLINARY CONSIDERATIONS**

7 18. To determine the degree of discipline, if any, to be imposed on Respondent,
8 Complainant alleges:

9 a. On or about January 7, 2008, Respondent was arrested for driving under the
10 influence of alcohol. She admitted to the officer that she “drank too much” alcohol. Respondent
11 submitted to two breath tests designed to determine if there was alcohol in her system. Those
12 tests indicated her blood alcohol content was 0.31 and 0.30 percent.

13 b. On March 25, 2008, in a criminal proceeding entitled *The People of the State of*
14 *California v. Shannon Marie Guy*, in Riverside County Superior Court, case number RIM511008,
15 Respondent was convicted on her plea of guilty to violating Vehicle Code section 23152,
16 subdivision (a), driving under the influence of alcohol and Vehicle Code section 23152,
17 subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more. The
18 Court granted three years summary probation and ordered her to serve 19 days in jail. She was
19 also ordered to complete a DUI program and pay all applicable fees and fines.

20 c. In 1997 or 1998, Respondent drove under the influence of alcohol when she
21 was nineteen years old.

22 **PRAYER**

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

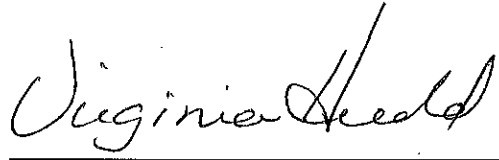
25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 126605,
26 issued to Shannon Marie Guy;
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2. Ordering Shannon Marie Guy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 7/30/16



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

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