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

12 In the Matter of the Accusation Against:

Case No. 6102

13 **CRYSTAL JUNE YODER**
14 **8580 Hazelnut Street**
Buena Park, CA 92360

A C C U S A T I O N

15 **Pharmacy Technician Registration License**
16 **No. TCH 92360**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 28, 2009, the Board issued Pharmacy Technician Registration
24 License Number TCH92360 to Crystal June Yoder (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and will
26 expire on June 30, 2017, unless renewed.

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1 **JURISDICTION**

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

4 4. Section 4300(a) of the Code provides that every license issued by the board may be
5 suspended or revoked.

6 5. Section 4300.1 of the Code states:

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

11 **STATUTORY PROVISIONS**

12 6. Section 482 of the Code states:

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

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

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

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

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

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a
25 board within the department pursuant to law to deny an application for a license or to
26 suspend or revoke a license or otherwise take disciplinary action against a person who
27 holds a license, upon the ground that the applicant or the licensee has been convicted
28 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 discipline or to determine if the conviction is substantially related to the
qualifications, functions, and duties of the licensee in question.

1 9. Section 4301 of the Code states:

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

5 ...

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

11 (l) The conviction of a crime substantially related to the qualifications, functions,
12 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
14 regulating controlled substances or of a violation of the statutes of this state regulating
15 controlled substances or dangerous drugs shall be conclusive evidence of
16 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
17 evidence only of the fact that the conviction occurred. The board may inquire into the
18 circumstances surrounding the commission of the crime, in order to fix the degree of
19 discipline or, in the case of a conviction not involving controlled substances or
20 dangerous drugs, to determine if the conviction is of an offense substantially related to
21 the qualifications, functions, and duties of a licensee under this chapter. A plea or
22 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
23 conviction within the meaning of this provision. The board may take action when the
24 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
25 or when an order granting probation is made suspending the imposition of sentence,
26 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing
27 the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
28 setting aside the verdict of guilty, or dismissing the accusation, information, or
indictment.

18 REGULATORY PROVISIONS

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

20 When considering the suspension or revocation of a facility or a personal license on
21 the ground that the licensee or the registrant has been convicted of a crime, the board, in
22 evaluating the rehabilitation of such person and his present eligibility for a license will
23 consider the following criteria:

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

25 (2) Total criminal record.

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

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

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

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

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

9 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
10 'registration.'

11 COSTS

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

18 FIRST CAUSE FOR DISCIPLINE

19 (February 8, 2017 Criminal Conviction for DUI on May 21, 2016)

20 13. Respondent has subjected her license to discipline under sections 490 and 4301,
21 subdivision (l) of the Code in that she was convicted of crimes that are substantially related to the
22 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

23 a. On or about February 8, 2017, in a criminal proceeding entitled *The People of*
24 *the State of California v. Crystal June Yoder*, in Riverside County Superior Court, case number
25 RIM1610421, Respondent was convicted on her plea of guilty to violating Vehicle Code section
26 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or higher,
27 a misdemeanor. Respondent admitted and the court found true the special allegation that her BAC
28 was .15 percent or more, within the meaning of Vehicle Code section 23578. The charge of
Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol/drugs, was
dismissed in the interest of justice, pursuant to Penal Code section 1385.

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1 b. As a result of the conviction, Respondent was granted summary probation for
2 three years, and committed to the custody of the Riverside County Sheriff for 30 days, with one
3 day credit for time served, which could be served in the work release program. Respondent was
4 ordered to attend and complete a first offender DUI program for nine months, enroll and complete
5 the MADD Victim Impact Panel Session, AA meetings, pay fees and fines, and comply with the
6 terms of DUI probation.

7 c. The facts that led to the conviction are that on or about the early morning on
8 May 21, 2016, the California Highway Patrol responded to report of a three car traffic collision on
9 the westbound lanes of Highway 91 in Corona. Upon arrival, the officer observed minor front
10 damage to Respondent's vehicle. Upon contact with Respondent, the officer asked Respondent if
11 she was involved in a collision. Respondent told the officer that she was driving in the #1 lane at
12 about 60 mph when her tire went flat. She told the officer that she turned on her hazard lights and
13 began to merge right when she was hit by another car as she was merging. The driver of the
14 second car involved in the collision reported that he was driving in the #1 lane at about 65 mph
15 when he felt Respondent's vehicle hit the right rear of his vehicle, causing him to lose control as
16 his vehicle spun across the right lanes of traffic and hit vehicle #3. The driver of vehicle #3
17 reported to the investigating officer that she was driving in the #2 lane at about 65 mph with
18 vehicle #2 ahead of her in the #1 lane. The driver of vehicle #3 noticed Respondent pass her on
19 the right and turn sharply to the left, crossing all the traffic lanes in front of vehicle #3 and strike
20 vehicle #2 on the right read. The driver of vehicle #3 watched vehicle #2 spin to the right upon
21 impact, and strike the rear of her vehicle. The officers observed none of Respondent's tires were
22 flat. The officer immediately noticed a strong smell of alcohol emitting from Respondent.
23 Respondent admitted to consuming alcohol last night. Respondent submitted to field sobriety
24 tests, which she performed poorly. Based on her objective symptoms of intoxication, Respondent
25 provided two breathalyzer tests, which were analyzed with a .27 and .26 percent. Respondent was
26 subsequently arrested for driving under the influence of alcohol.

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SECOND CAUSE FOR DISCIPLINE

(Using Alcoholic Beverages to the Extent or in Manner as to be Dangerous or Injurious)

14. Respondent has subjected her registration to discipline under section 4301, subdivision (h) of the Code in that she used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself and to the public, in that she operated a motor vehicle on May 21, 2016, while significantly impaired by alcohol, as described in paragraph 13, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

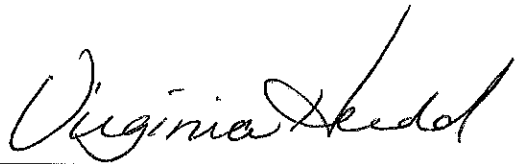
15. Respondent has subjected her registration to disciplinary action under Code section 4301 for unprofessional conduct in that she engaged in activities described in paragraph 13, above, which is incorporated herein by reference.

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 TCH92360, issued to Crystal June Yoder;
2. Ordering Crystal June Yoder 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: 4/24/17



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

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