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5	BEFORE THE	
6	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
7	STATE OF CALIFORNIA	
8	In the Matter of the Accusation Against:	Case No. 3581
9	DEBORAH CONNER	
10	10800 Woodside Ave. #88	DEFAULT DECISION AND ORDER
11	Santee, CA 92071	[Gov. Code, §11520]
12	Pharmacy Technician Registration No. TCH 23357	
13	Respondent.	
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16		<u>S OF FACT</u>
17		ainant Virginia Herold, in her official capacity as
18	the Executive Officer of the Board of Pharmacy,	
19	Accusation No. 3581 against Deborah Conner (F	Respondent) before the Board of Pharmacy.
20	2. On or about July 27, 1997, the Board	d of Pharmacy (Board) issued Pharmacy
21	Technician License No. TCH 23357 to Respondent. The License was in full force and effect at	
22	all times relevant to the charges brought herein, and will expire on June 30, 2011, if not renewed.	
23	3. On or about April 1, 2010, J. Mejia,	an employee of the Department of Justice, served
24	by Certified and First Class Mail a copy of the A	ccusation No. 3581, a Statement to Respondent,
25	two copies of a form Notice of Defense, a Reque	est for Discovery, and copies of Government
26	Code, sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board:	
27	10800 Woodside Ave. #88 Santee, CA 92071. Copies of the Accusation are attached as exhibit	
28	A, and are incorporated herein by reference.	
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4. Service of the Accusation was effective as a matter of law under the provisions of Government Code, section 11505, subdivision (c). In addition, on or about April 5, 2010, the Certified Mail Return Receipt card was returned to the Department of Justice, dated April 3, 2010 for receipt of the Accusation materials, with what appears to be Respondent's signature. A copy of the Certified Mail Return Receipt card is included with the documents in exhibit A.

5. Government Code, section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

6. Respondent failed to file a Notice of Defense within 15 days after service upon her of 11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3581. 12

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California Government Code, section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the 14 agency may take action based upon the respondent's express admissions or upon other evidence 15 and affidavits may be used as evidence without any notice to respondent. 16

Pursuant to its authority under Government Code, section 11520, the Board finds 8. Respondent is in default. The Board will take action without further hearing and, based on the evidence on file herein, finds that the allegations in Accusation No. 3581 are true.

9. The total costs for investigation and enforcement in connection with the Accusation 20 are \$2,932.50 as of April 20, 2010.

DETERMINATION OF ISSUES

Based on the foregoing findings of fact, Respondent Deborah Conner has subjected 24 1. her Pharmacy Technician License No. TCH 23357 to discipline. 25

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A copy of the Accusation is attached.

3. The agency has jurisdiction to adjudicate this case by default.

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4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician License based upon the following violations alleged in the Accusation:

a. In violation of Business and Professions Code, section(s) 4301 (l) and/or 490,
Respondent was convicted of substantially related crime(s), when on or about October 17, 2007,
in a criminal proceeding entitled *People of the State of California v. Deborah Conner*, in San
Diego County Superior Court, Respondent was convicted on her plea of guilty for violating
Vehicle Code, section 23152(b), driving under the influence with a special allegation of blood
alcohol level of .15 or more under Vehicle Code, section 23578;

b. In violation of Business and Professions Code, section(s) 4301-(l) and/or 490, —
Respondent was convicted of substantially related crime(s), when on or about October 17, 2007,
in a criminal proceeding entitled *People of the State of California v. Deborah Conner*, in San
Diego County Superior Court, Respondent was convicted on her plea of guilty for violating
Vehicle Code, section 23152(b), driving under the influence of alcohol with a special allegation
of blood alcohol level of .15 or more under Vehicle Code, section 23578;

c. In violation of Business and Professions Code, section(s) 4301 (l) and/or 490,
Respondent was convicted of substantially related crime(s), when on or about April 28, 2009, in
criminal proceeding entitled of *People of the State California v. Deborah Conner*, in San Diego
County Superior Court, Respondent was convicted on her plea of guilty for violating Vehicle
Code 23152(b), driving under the influence of alcohol with a special allegation of blood level of
.15 or more under Vehicle Code, section 23548 and an allegation of DUI convictions within ten
years under Vehicle Code, section 23626 and Vehicle Code, section 23546;

d. In violation of Business and Professions Code, section 4301, subdivision (h),
Respondent used alcohol in a dangerous manner by driving under the influence on multiple
occasions as described in paragraphs a-c above, which are incorporated by reference.

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1	ORDER		
2	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 23357 heretofore		
3	issued to Respondent Deborah Conner, is revoked.		
4	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a		
5	written motion requesting that the Decision be vacated and stating the grounds relied on within		
6	seven (7) days after service of the Decision on Respondent. The agency in its discretion may		
7	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.		
8	This Decision shall become effective on August 5, 2010.		
9	It is so ORDERED July 6, 2010.		
10	A C. Selloon		
11	STANLEY C. WEISSER, BOARD PRESIDENT		
12	FOR THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
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14	Attachment: Exhibit A: Accusation No. 3581		
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	4 DEFAULT DECISION AND ORDER (Case No. 3581)		

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Exhibit A Accusation No. 3581

1	EDMUND G. BROWN JR. Attorney General of California		
2	LINDA K. SCHNEIDER Supervising Deputy Attorney General G. MICHAEL GERMAN		
4	Deputy Attorney General State Bar No. 103312		
	110 West "A" Street, Suite 1100		
5	San Diego, CA 92101 P.O. Box 85266		
6	San Diego, CA 92186-5266 Telephone: (619) 645-2617		
7	Facsimile: (619) 645-2061 Attorneys for Complainant		
8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:		
12	DEBORAH CONNER		
13	10800 Woodside Ave #88 Santee, CA 92071		
14	A C C U S A T I O N Pharmacy Technician Registration No. TCH		
15	23357 Respondent.		
16			
17	Complainant alleges:		
18	PARTIES		
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On or about July 28, 1997, the Board of Pharmacy issued Pharmacy Technician		
22	Registration Number TCH 23357 to Deborah Conner (Respondent). The Pharmacy Technician		
23	Registration was in full force and effect at all times relevant to the charges brought herein and		
24	will expire on June 30, 2011, unless renewed.		
25	JURISDICTION		
26	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
27	Consumer Affairs, under the authority of the following laws. All section references are to the		
28	Business and Professions Code unless otherwise indicated.		
	· 1		
ļ	Accusation		

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
 disciplinary action during the period within which the license may be renewed, restored, reissued
 or reinstated.

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

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

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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.

(1) 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.

1	7. Section 490 of the Code of the Code provides, in pertinent part, that a board may		
2	suspend or revoke a license on the ground that the licensee has been convicted of a crime		
3	substantially related to the qualifications, functions, or duties of the business or profession for		
4	which the license was issued.		
5	8. Section 493 of the Code states:		
6	Notwithstanding any other provision of law, in a proceeding conducted by a		
7	board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a		
8	person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and		
9	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,		
10	and the board may inquire into the circumstances surrounding the commission of		
11	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		
12	question.		
13	As used in this section, "license" includes "certificate," "permit," "authority," and "registration."		
14	aumonity, and registration.		
15	9. Section 482 of the Code states:		
16 17	Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:		
18	(a) Considering the denial of a license by the board under Section 480; or		
19	(b) Considering suspension or revocation of a license under Section 490.		
20	Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.		
21	REGULATORY PROVISIONS		
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23	10. California Code of Regulations, title 16, section 1769, states:		
24	(b) When considering the suspension or revocation of a facility or a personal		
25	license on the ground that the licensee or the registrant has been convicted of a		
26 27	crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:		
27 28	(1) Nature and severity of the act(s) or offense(s).		
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(2) Total criminal record. 1 (3) The time that has elapsed since commission of the act(s) or offense(s). 2 (4) Whether the licensee has complied with all terms of parole, probation, 3 restitution or any other sanctions lawfully imposed against the licensee. 4 (5) Evidence, if any, of rehabilitation submitted by the licensee. 5 California Code of Regulations, title 16, section 1770, states: 11. 6 7 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 8 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 9 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 10 consistent with the public health, safety, or welfare. 11 COST RECOVERY 12 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. 17 FIRST CAUSE FOR DISCIPLINE 18 (October 17, 2007 Criminal Conviction for DUI on September 26, 2007) 19 13. Respondent is subject to disciplinary action under sections 490 and 4301, subdivision 20 (1) of the Code in that she was convicted of a crime that is substantially related to the 21 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows: 22 On or about October 17, 2007, in a criminal proceeding entitled *People of the State of* a. 23 California v. Deborah Conner, in San Diego County Superior Court, case no. C274815, 24 Respondent was convicted on her plea of guilty for violating Vehicle Code section 23152 (b), 25 driving under the influence of alcohol with a special allegation of blood alcohol level of .15 or 26 more under Vehicle Code 23578. 27 28

b. As a result of the conviction, on or about October 17, 2007, Respondent was sentenced to five years of conditional probation, required to enroll in and complete a three month first offender alcohol program, serve 217 days in jail and to pay a fine of \$1,834.00.

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The facts that led to the conviction were that on or about September 26, 2007 in the c. afternoon, Respondent was driving near the intersection of Town Center Parkway and Mission Gorge Road in Santee, California, when she hit two trees. She admitted to the arresting officer that she drank six shots of alcohol before driving to a craft store to paint. When Respondent was transported to jail, a breath test was administered, with results of .20 and .19---over twice the legal limit.

SECOND CAUSE FOR DISCIPLINE

(October 17, 2007 Criminal Conviction for DUI on October 12, 2007) 14. Respondent is subject to disciplinary action under sections 490 and 4031, subdivision 12 (1) of the Code in that she was convicted of a crime that is substantially related to the 13 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows: 14 On or about October 17, 2007, in a criminal proceeding entitled *People of the* 15 a. State of California v. Deborah Conner, in San Diego County Superior Court, case no. C275132, 16 Respondent was convicted on her plea of guilty for violating Vehicle Code section 23152(b), 17

driving under the influence of alcohol with a special allegation of blood alcohol level of .15 or 18 more under Vehicle Code section 23578. 19

As a result of the conviction, on or about October 17, 2007, Respondent was b. 20 sentenced to five years of conditional probation, required to enroll in and complete a multiple 21 conviction alcohol program, complete MADD victims impact panel, attend six months of 22 rehabilitation, serve one year in jail and to pay a fine of \$2,276.00. : 23

The facts that led to the conviction were that on or about October 12, 2007 24 C. (approximately three weeks after her DUI arrest on September 26, 2007), Respondent caused a 25 26 disturbance and began using foul language in front of children at a child's birthday party. She appeared to be extremely intoxicated and fell down at the child's party but insisted on driving 27 home. When she left the party, the police were called. The police arrested Respondent at her 2.8

home for driving under the influence. When Respondent was transported to jail, a breath test was
 administered with results of .18 and .19—over twice the legal limit.

THIRD CAUSE FOR DISCIPLINE

(April 28, 2009 Criminal Conviction for DUI on March 13, 2009)

Respondent is subject to disciplinary action under sections 490 and 4301, subdivision 5 15. (1) of the Code in that she was convicted of a crime that is substantially related to the 6 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows: 7 On or about April 28, 2009, in a criminal proceeding entitled of People of the State 8 California v. Deborah Conner, in San Diego County Superior Court, case number C290030, 9 Respondent was convicted on her plea of guilty for violating Vehicle Code 23152(b), driving 10 under the influence of alcohol with a special allegation of blood alcohol level of .15 or more 11 under Vehicle Code 23548 and an allegation of DUI convictions within ten years under Vehicle 12 Code 23626 and Vehicle Code 23546. 13

b. As a result of the conviction, on or about April 28, 2009, Respondent was sentenced
to five years conditional probation, required to enroll in and complete a Multiple Conviction
Alcohol Program, complete MADD Victim Impact Panel, serve 180 days in jail, and pay a fine of
\$2,675.00.

c. The facts that led to the conviction were that on or about March 13, 2009, while on probation for the convictions set forth in paragraphs 13 and 14 above, Respondent was driving under the influence of alcohol, in the afternoon around a mobile home park where there were children playing and other pedestrians present. The arresting police officer opined that "the potential for injury to one of these pedestrians, because [Respondent] chose to drive under the influence was great." A preliminary alcohol screening was administered at the scene with results of .200 and .195—over twice the legal limit.

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1	FOURTH CAUSE FOR DISCIPLINE	
2	(Use of Alcohol in Dangerous Manner)	
3	16. Respondent is subject to disciplinary action under section 4301(h) of the Code in that	
4	Respondent used alcohol in a dangerous manner by driving under the influence on multiple	
5	occasions as described in paragraphs 13-15 above which are incorporated by reference.	
6	DISCIPLINE CONSIDERATIONS	
7	17. To determine the degree of discipline, if any, to be imposed on Respondent,	
8	Complainant alleges that in or about 1996, in a prior criminal proceeding, Respondent was	
9	convicted for driving under the influence and was sentenced to 5 years probation, to serve 2 days	
10	in jail, to complete a First Offender Program, to complete 232 hours of volunteer work, and to	
11	pay a fine of \$1,630.00.	
12	PRAYER	
13	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
14	and that following the hearing, the Board of Pharmacy issue a decision:	
15	1. Revoking or suspending Pharmacy Technician Registration Number TCH 23357,	
16	issued to Deborah Conner.	
17	2. Ordering Deborah Conner to pay the Board of Pharmacy the reasonable costs of the	
18	investigation and enforcement of this case, pursuant to Business and Professions Code section	
19	125.3;	
20	3. Taking such other and further action as deemed necessary and proper.	
21		
22	DATED: 32210 Jugine Level	
23	Executive Officer Board of Pharmacy	
24	Department of Consumer Affairs State of California	
25	Complainant	
26	SE2010800022	
27	SD2010800033 80439068.doc	
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