

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

In the Matter of the Accusation Against:

Case No. 3809

**GLORIA LUCY CARR
4226 W Kent Avenue
Santa Ana, CA 92704**

**Pharmacy Technician License No.
TCH 18672**

Respondent.

DECISION AND ORDER

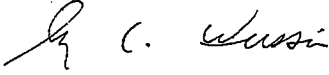
The attached Proposed Decision and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 25, 2012.

It is so ORDERED on April 25, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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

In the Matter of the Accusation Against:

GLORIA LUCY CARR,
Pharmacy Technician Registration
No. TCH 18672

Respondent.

Case No. 3809

OAH No. 2011040344

PROPOSED DECISION

Carla Nasoff, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on February 14, 2012, in San Diego, California,

Antoinette Buzzell Cincotta, Deputy Attorney General, Office of the Attorney General, represented complainant Executive Officer, Virginia Herold, Board of Pharmacy, Department of Consumer Affairs, State of California.

Gloria L. Carr represented herself and was present throughout the administrative proceeding.

The matter was submitted on February 14, 2012.

FACTUAL FINDINGS

Jurisdictional Matters

1. On November 29, 2010, Executive Officer Virginia Herold, Board of Pharmacy, Department of Consumer Affairs, State of California, (Board) filed the Accusation Case No. 3809 in her official capacity.

The Accusation and other required jurisdictional documents were served on Gloria Carr, (Carr or respondent), who timely filed a Notice of Defense.

2. On February 14, 2012, the record in the administrative hearing was opened. Jurisdictional documents were presented, sworn testimony was received, documentary evidence was introduced and closing arguments were given.

License History

3. On March 13, 1996, the Board issued a Pharmacy Technician Registration number TCH 18672 to Gloria L. Carr to work as a pharmacy technician in California. The registration was in full force and effect until January 31, 2012.

Accusation

4. The Accusation alleged five Causes for Discipline and sought revocation or suspension of respondent's Pharmacy Technician Registration.

- The first Cause for Discipline alleged that on October 21, 2004, respondent was convicted on her plea of guilty to violating Vehicle Code section 23152, subdivisions (a) and (b), driving under the influence of alcohol and driving with a blood alcohol content (BAC) of .08 percent or more, both misdemeanors.
- The second Cause for Discipline alleged that on June 26, 2007, respondent was convicted on her plea of guilty to violating Vehicle Code section 23152 subdivisions (a) and (b), driving under the influence of alcohol and driving with a BAC of .08 percent or more, both misdemeanors.
- The third Cause for Discipline alleged that on February 19, 2010, respondent plead nolo contendere and the court found her guilty of violating Vehicle Code section 23152 subdivision (b), driving with a BAC of .08 percent or more, a misdemeanor.
- The fourth Cause for Discipline alleged that on July 3, 2004, August 25, 2006, and September 17, 2009, respondent drove a vehicle while under the influence of alcohol which posed a serious risk of injury and/ or death to herself and to the public.
- The fifth Cause for Discipline alleged that on October 21, 2004, June 26, 2007, and February 19, 2010, respondent was convicted in three separate cases on charges involving the consumption of alcohol.

Convictions

5. Respondent's first offense occurred on July 3, 2004. Respondent was arrested for driving under the influence of alcohol. On October 21, 2004, respondent was convicted on her plea of guilty of violating Vehicle Code section 23152 subdivisions (a) and (b), (driving with a blood alcohol content of more than .08 percent), both misdemeanors. Respondent was placed on informal probation, ordered to pay fines and fees of \$727, complete a six month first offender's program and had her driver's license restricted for

ninety days. On June 26, 2007, respondent violated probation by failing to pay her fines and fees. She was ordered to serve sixty days in jail that was stayed.

6. The second offense occurred on August 25, 2006, while respondent was still on criminal probation for her first offense. Respondent was arrested for driving under the influence of alcohol. She drove her car over several curbs in front of a residential neighborhood. Respondent pled guilty to driving while under the influence and with a BAC over .08 percent. Respondent was placed on five (5) years probation, ordered to pay \$727 in fines and fees, completed an 18 month multiple offender program and participate in a 90 day outpatient program. The Orange County Superior Court consolidated her two cases and the conviction ran concurrently with the same orders as listed in Finding of Fact 5 above.

7. The third offense occurred on September 17, 2009, at 22:00 while respondent was still on criminal probation. Respondent was on her way to the shopping mall and had been drinking. "I had a problem and was not thinking." Respondent's car was weaving and swerving while respondent was using her cell phone. Respondent was arrested for driving under the influence of alcohol. On August 24, 2009, respondent was convicted on her plea of nolo contendere of violating Vehicle Code section 23152 subdivision (b). Her driver's license was suspended for one year. She attended the MADD victim impact, paid fines and fees totaling \$1,886 and was placed on summary probation until February 19, 2015.

Gloria Carr's Testimony

8. Carr was born in 1951. In 1971 she graduated from high school. In 1996 she obtained her Pharmacy Technician Registration. From 2000 through 2004, she worked as a Pharmacy Technician at Garden Grove Hospital. From 2004 through 2006, she worked as a Pharmacy Technician at Grove Harbor Pharmacy. From November 2006 to the present, she works at United HealthCare Prescriptions Solutions call center. Her job title is a senior advocate and her duties include obtaining patient authorizations for pharmacies and medical offices. Her position requires a Pharmacy Technician Registration.

9. Respondent admitted she violated her criminal probation on several occasions. She admitted she was convicted of her second DUI while on criminal probation for her first conviction. She admitted she was convicted of her third DUI while on criminal probation for her second conviction. Respondent admitted she initially failed to timely pay her fines and fees as court ordered, violated probation and as a result was sentenced to serve time in the county jail. Respondent spent a total of 45 days in county jail since her 2004 conviction.

10. Respondent testified that she had many stressors in her life from 2004 through 2009, including mounting credit card debt and dealing with the separation from her husband. She has three children, is a grandmother and lives alone. Her criminal probation ends on February 19, 2015.

11. Respondent testified that she regularly attends Alcoholic Anonymous (A.A.) meetings even though they were not court ordered. She testified that she has been sober for

the past one and a half years, but could not readily provide her sobriety date. She testified that she never went to work intoxicated and just wants a "second chance."

A.A. Attendance Logs, Employment Evaluations, DUI Certificate of Completion

12. Respondent submitted A.A. weekly attendance logs from September 8, 2010, through January 28, 2012. She also submitted her employment evaluations that reference she met employment expectations. Respondent provided the DMV certificate of completion for her court ordered DUI Program.

Rehabilitation

13. Since her last conviction in 2009, respondent has demonstrated steps toward rehabilitation. She regularly attends A.A. meetings, completed the court ordered DUI program, paid all her court fines and fees, attended the MADD victim impact panel and has been sober for the past one and a half years. She remains on criminal probation until February 19, 2015.

Respondent was emotional during her testimony and recognized the seriousness of her criminal convictions. She appeared ashamed of her past and had difficulty describing the events that lead to the convictions. She was sincere in her testimony regarding her commitment to sobriety, but was unable to readily provide her sobriety date. She did not make excuses for her multiple DUI's and has learned a very difficult and expensive lesson.

Evaluation

14. Respondent has committed repeated acts of driving under the influence and repeatedly violated her criminal probation.

Respondent's repeated crimes of driving under the influence of alcohol are substantially related to the qualification, functions and duties of a Pharmacy Technician. The nature and severity of the crimes involved placing herself and others at risk while driving impaired and demonstrated a lack of good judgment. Respondent's crimes involved unprofessional conduct as she ingested alcohol and then chose to drive her car. The three DUI convictions evidenced unfitness of a registrant to perform the functions authorized by her registration in a manner consistent with the public health, safety, or welfare. Her use and abuse of alcohol placed herself and others in grave danger. Furthermore, respondent's repeated violations of her criminal probation demonstrated her lack of respect for the law.

Respondent has demonstrated some steps toward rehabilitation since her last conviction. She has taken responsibility for her past mistakes. She exhibited shame and embarrassment for her past conduct. She has worked hard to overcome her past bad choices of drinking and driving. Although, she appeared to have learned a very difficult and extremely expensive lesson, not enough time has passed. She remains on court ordered probation until 2015. Her conditions of probation require that she must remain law abiding and obey all laws. Her past history has demonstrated that she has violated probation on

multiple occasions. Therefore, the test for determining whether respondent will remain law abiding will be measured when she is no longer on court ordered probation and personally chooses to remain law abiding. Although respondent is commended for her initial efforts, not enough time has passed to determine sufficient rehabilitation.

Costs of Investigation and Enforcement

15. A certificate of prosecution cost and attorney declaration was prepared and submitted. The total investigative and prosecution costs requesting \$2,737.50 were reasonable.

LEGAL CONCLUSIONS

1. Business and Professions Code section 482 provides in part:

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

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

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

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

2. Business and Professions Code section 490 provides in 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 qualification, functions or duties of the business or professions for which the license was issued

3. Business and Professions Code section 493 states:

“Notwithstanding any other provision of law, in a proceeding conducted by a 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 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 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.

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

4. Business and Professions Code section 4301, subdivision (h)(k)(l), provides in part that the board shall take action against any holder of a license whose is guilty of unprofessional conduct. Unprofessional conduct shall include (h) the administration of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself or the public; (k) the conviction of more than one misdemeanor, or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverages, or any combination of those substances; and (l) the conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 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.

5. California Code of Regulations, title 16, section 1769, subdivisions (b) (1-5), outline the factors to be evaluated when considering the suspension or revocation of a personal license on the ground that the registrant has been convicted of a crime, the board in evaluating the rehabilitation of such person will consider (1) the nature and severity of the acts or offenses; (2) the total criminal record; (3) the time that has elapsed since commission of the acts or offenses; (4) whether the licensee has complied with all terms of probation and (5) evidence of rehabilitation.

6. California Code of Regulations, title 16, section 1770, provides in part that for purpose of denial, suspension, or revocation of a personal or facility license, a crime 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 registrant to perform the functions authorized by his registration in a manner consistent with the public health, safety, or welfare.

7. Mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is presented by sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.)

8. The evidentiary significance of an applicant's misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

9. Since persons under the direct supervision of judicial or correctional authorities are required to behave in exemplary fashion, little weight is generally placed on the fact that such an individual did not commit additional crimes or continue inappropriate behavior while under supervision. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

Cause Exist to Impose Discipline

10. Cause exists to impose discipline against the Pharmacy Technician Registration issued to Gloria L. Carr under Business and Professions Code sections 482, 490, 493, and 4301, subdivisions (h)(k), and (l), collectively, as established under Factual Findings 5, 6, 7, 8, 9, 10, 11, 13 and 14. Cause exists to further impose discipline against respondent under California Code of Regulations, title 16, sections 1769, subdivisions (b)(1-5), and 1770 as established by Factual Findings 5, 6, 7, 8, 9, 10, 11, 13 and 14. The prosecution costs were reasonable as established under Factual Findings 15.

The clear and convincing evidence established that respondent was convicted three times of driving while under the influence of alcohol, crimes that are substantially related to the qualifications, functions and duties of a Pharmacy Technician who must possess good moral character and good judgment as established in Factual Findings 5, 6, 7, 8, 9, 10, 11 and 14. Respondent's repeated crimes of driving under the influence of alcohol are substantially related to the qualification, functions and duties of a Pharmacy Technician. The nature and severity of the crimes involved placing herself and others at risk while driving impaired and demonstrated a lack of good judgment. Respondent's repeated violations of criminal probations demonstrated her lack of respect for the law as established in Factual Finding 14.


In addition, respondent's conduct was unprofessional as established in Factual Finding number 5, 6, 7, 8, 9, 10, 11 and 14. Not enough time has passed as respondent remains on criminal probation as established in Factual Findings 10, 13 and 14. The evidence of respondent's rehabilitation in Factual Finding 12 and 13 was insufficient to permit her to retain her Pharmacy Technician Registration, even on a probationary basis.

ORDER

Pharmacy Technician Registration No. TCH 18672 issued by the Board of Pharmacy to Gloria L. Carr is revoked.

Respondent is ordered to pay the reasonable investigation and prosecution costs of \$2,737.50.

DATED: March 12, 2012


CARLA NASOFF
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR.
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Agency Case No. 3809

13 **GLORIA L. CARR**
12151 Bayport Street, Bld. 10, #204
14 Garden Grove, CA 92840

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 18672**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about March 13, 1996, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 18672 to Gloria L. Carr (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on January 31, 2012, unless renewed.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11

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 (Code) unless otherwise indicated.

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

STATUTORY PROVISIONS

6. Section 482 of the Code states:

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

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

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

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

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. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a 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 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 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 As used in this section, 'license' includes "certificate," "permit," "authority,"
2 and "registration."

3 9. Section 4301 of the Code states:

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

8

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

14

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

18 (l) The conviction of a crime substantially related to the qualifications,
19 functions, and duties of a licensee under this chapter. The record of conviction of a
20 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
21 States Code regulating controlled substances or of a violation of the statutes of this
22 state regulating controlled substances or dangerous drugs shall be conclusive
23 evidence of unprofessional conduct. In all other cases, the record of conviction shall
24 be conclusive evidence only of the fact that the conviction occurred. The board may
25 inquire into the circumstances surrounding the commission of the crime, in order to
26 fix the degree of discipline or, in the case of a conviction not involving controlled
27 substances or dangerous drugs, to determine if the conviction is of an offense
28 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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

....

(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.

11. 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.

COSTS

12. 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

(October 21, 2004 Criminal Convictions for Driving Under the Influence on July 3, 2004)

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

///

1 a. On or about October 21, 2004, in a criminal proceeding entitled *People of the*
2 *State of California v. Gloria Lucy Carr, aka Gloria Carr, aka Gloria L. Carr, aka Gloria L.*
3 *Hernandez*, Orange County Superior Court (West Justice Center), case number 04WM09975,
4 Respondent was convicted on her plea of guilty to violating Vehicle Code section 23152,
5 subdivision (a), driving under the influence of alcohol; and Vehicle Code section 23152,
6 subdivision (b), driving with a blood alcohol content (BAC) of 0.08% or more, misdemeanors.
7 The above convictions were enhanced by the special allegation that Respondent was driving with
8 a BAC of 0.20% or more, which she admitted.

9 b. As a result of the convictions, on or about October 21, 2004, Respondent was
10 sentenced to summary probation for three years, ordered to enroll in and attend a six-month Level
11 II First Offender Alcohol Program, pay \$1,432.50 in fees, fines, and restitution, and comply with
12 standard alcohol terms. Respondent's driver's license was restricted for 90 days. Respondent's
13 probation was revoked and reinstated three times for failure to pay fees and fines.

14 c. The facts that led to the conviction are that on or about July 3, 2004,
15 Respondent was arrested in Orange County for driving with a BAC of 0.20%.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(June 26, 2007 Criminal Convictions for Driving Under the Influence on August 25, 2006)**

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

22 a. On or about June 26, 2007, in a criminal proceeding entitled *People of the State*
23 *of California v. Gloria Lucy Carr, aka Gloria Carr, aka Gloria L. Carr, aka Gloria L.*
24 *Hernandez*, Orange County Superior Court (West Justice Center), case number 07WM00636,
25 Respondent was convicted on her plea of guilty to violating Vehicle Code section 23152,
26 subdivision (a), driving under the influence of alcohol; and Vehicle Code section 23152,
27 subdivision (b), driving with a BAC of 0.08% or more, misdemeanors. The above convictions
28 were enhanced by the special allegation that Respondent was driving with a BAC of 0.15% or

1 more, and that the above convictions occurred within ten (10) years of a conviction for the same
2 offense, which she admitted. (See paragraph 13, above.)

3 b. As a result of the convictions, on or about June 26, 2007, Respondent was
4 sentenced to summary probation for five years, ordered to serve 60 days in the county jail (with
5 credit for six days), enroll in and attend an 18-month Multiple Offender Alcohol Program,
6 complete a 90-day outpatient program following jail, pay \$1,580.50 in fees, fines, and restitution,
7 and comply with standard alcohol terms.

8 c. The facts that led to the convictions are that on or about the morning of August
9 25, 2006, the Garden Grove Police Department dispatched an officer to investigate a report that a
10 black Ford Explorer had driven over the curb and down the sidewalk in front of a house, then
11 drove down the street and disappeared. The reporting party left for work a short time later and
12 saw the same black Explorer pull over to the side of the road with a flat right front tire. The
13 female driver of the Explorer (identified as Respondent) got out of her vehicle, inspected the tire,
14 then got back into her vehicle and continued driving down the street. The reporting party
15 continued to follow Respondent and called the police. Respondent parked her vehicle, got out
16 and departed on foot. Police officers intercepted Respondent as she was walking down the street.
17 Respondent denied driving on the sidewalk or hitting any object that flattened her tire.
18 Respondent was arrested for driving under the influence of alcohol.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(February 19, 2010 Criminal Conviction for Driving Under the Influence**
21 **on September 17, 2009)**

22 15. Respondent has subjected her pharmacy technician registration to discipline under
23 sections 490 and 4301, subdivision (l) of the Code in that she was convicted of a crime that is
24 substantially related to the qualifications, duties, and functions of a pharmacy technician. The
25 circumstances are as follows:

26 a. On or about February 19, 2010, in a criminal proceeding entitled *People of the*
27 *State of California v. Gloria Lucy Carr*, Orange County Superior Court, case number 9LT01613,
28 Respondent plead nolo contendere and the court found her guilty of violating Vehicle Code

1 section 23152, subdivision (b), driving with a BAC of 0.08% or more, a misdemeanor.

2 Respondent further admitted two prior convictions for the same violation as described in
3 paragraphs 13 and 14, above.

4 b. As a result of the conviction, on or about February 19, 2010, Respondent was
5 sentenced to summary probation for five years, ordered to serve 30 days in the county jail (with
6 credit for two days), complete a 30-month treatment or counseling program, pay \$1,886 in fees,
7 fines, and restitution, and comply with enhanced alcohol terms. Respondent's driver's license
8 was suspended for one (1) year, an ignition interlock device was directed, and she was required to
9 complete the Hospital and Morgue (HAM) Program, and MADD's Victim Impact Program.

10 c. The facts that led to the conviction are that on or about the evening of
11 September 17, 2009, an officer from the Long Beach Police Department observed Respondent
12 driving northbound on Interstate 405 and weaving from lane to lane. After conducting a traffic
13 stop, Respondent told the officer that she was weaving because she was using her phone. She
14 denied drinking alcohol. Based on his observations, the officer conducted a series of field
15 sobriety tests, which Respondent failed to perform as explained and demonstrated. The officer
16 noted that Respondent staggered and stumbled. Respondent submitted to an intoxilyzer with two
17 results of 0.12% BAC.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Use of Alcohol in a Manner Dangerous & Injurious to Oneself & the Public)**

20 16. Respondent has subjected her pharmacy technician registration to disciplinary action
21 under section 4301, subdivision (h) of the Code in that on or about July 3, 2004, August 25, 2006,
22 and September 17, 2009, Respondent drove a vehicle while under the influence of alcohol, as
23 detailed in paragraphs 13-15, above, which posed a serious risk of injury and/or death to herself
24 and to the public.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Multiple Convictions Involving the Use of Alcohol)**

27 17. Respondent has subjected her pharmacy technician registration to disciplinary action
28 under section 4301, subdivision (k) of the Code in that on or about October 21, 2004, June 26,

1 2007, and February 19, 2010, Respondent was convicted in three separate cases on charges
2 involving the consumption of alcohol, as detailed in paragraphs 13-15, above.

3 **PRAYER**

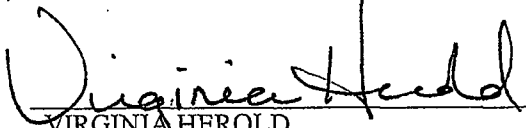
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 18672,
7 issued to Gloria L. Carr;

8 2. Ordering Gloria L. Carr to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3;

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

12
13 DATED: 11/29/10


14 VIRGINIA HEROLD
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant

20
21
22
23
24
25
26
27
28
SD2010702037