



California State Board of Pharmacy
 1625 N. Market Blvd, N219, Sacramento, CA 95834
 Phone: (916) 574-7900
 Fax: (916) 574-8618
 www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Yodmi So</u>	Case No. <u>4265</u>
Address of Record: <u>121 S. Occidental Bl. #301</u> <u>Los Angeles CA 90057</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 4265, I hereby request to surrender my pharmacy technician license, License No. TCH86587. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

Applicant's Signature *Yodmi So*
 Executive Officer's Approval *Virginia Huel*

Date 2/3/2015
 Date 2/19/15

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

YOOMI SO

121 S Occidental Blvd. Apt. # 301
Los Angeles, CA 90057

Pharmacy Technician Registration No.
TCH 86587

Respondent.

Case No. 4265

OAH No. 2014020440

DECISION AND ORDER

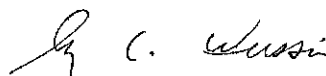
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 16, 2015.

It is so ORDERED on December 17, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

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

In the Matter of the Accusation Against:

YOOMI SO
a.k.a. YOO MI SO
a.k.a. YOO ME SO
a.k.a. YOO SO

Pharmacy Technician
Registration No. TCH 86587

Respondent.

Case No. 4265

OAH No. 2014020440

PROPOSED DECISION

This matter came on regularly for hearing before Matthew Goldsby, Administrative Law Judge, on November 10, 2014, at the Office of Administrative Hearings in Los Angeles, California.

Alvaro Mejia, Deputy Attorney General, appeared and represented Virginia Herold (the complainant), Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (the Board).

Yoomi So (the respondent) appeared and represented herself.

The record was closed and the matter was submitted for decision at the conclusion of the hearing.

FACTUAL FINDINGS

1. On January 29, 2010, the Board issued pharmacy technician license number TCH 86587 to the respondent. The license is valid and will expire on June 30, 2015, unless renewed.

2. The complainant brought the Accusation in her official capacity. The respondent timely submitted a Notice of Defense, which contained a request for a hearing.

3. On February 7, 2011, the respondent entered a plea of nolo contendere and was convicted of driving under the influence of alcohol in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor. (*People v. So* (Super. Ct. Los Angeles County, 2010, No. OBF05954).) The respondent was incarcerated for three days and placed on 48 months of probation. She was ordered to pay penalty assessments and fines in the total amount of \$2,298. She was ordered to enroll in alcohol programs and not to drive any vehicle with any measurable amount of alcohol in her blood.

4. The conviction arose from an incident on October 16, 2010. The respondent consumed alcohol during a social gathering at a friend's house in Orange County. The respondent planned to spend the night at her friend's house, but her mother called, unable to find her keys and needing access to their shared residence in Los Angeles. The respondent believed that she consumed less than the legal limit to drive and chose to drive home. She was pulled over by the police for speeding. Her blood alcohol content was .15 percent.

5. Previously, on November 23, 2004, the respondent entered a plea of guilty and was convicted of driving under the influence of alcohol in violation of Vehicle Code section 23152, subdivision (b), a misdemeanor. (*People v. So* (Super. Ct. Orange County, 2004, No. 04NM11864).)¹ The imposition of her sentence was suspended and the respondent was placed on 36 months of probation. She was ordered not to drive a motor vehicle with any measurable amount of alcohol in her system and to submit to testing as directed by her probation officer. She was ordered to attend and complete a first offender alcohol program. Her driver's license was restriction for 90 days. She was ordered to pay fines and restitution in the total sum of \$567.

6. The respondent completed all court-ordered alcohol abuse training programs. She paid all court fines and assessments in both cases. She successfully completed probation in relation to the 2004 conviction. She remains on probation until February 6, 2015, in relation to the 2011 conviction.

7. The respondent has made new friends through her church and alcohol treatment. She stopped drinking alcohol on January 2, 2014. She installed a breathalyzer device in her car that blocks ignition if she tests positive for alcohol. She has gained a better understanding of the risks associated with drinking and driving.

8. The respondent has worked at a retail pharmacy for seven years. Her employer is satisfied with her performance and she has no record of employment discipline. Her job duties are administrative and she has no access to controlled substances.

9. The complainant incurred reasonable costs in the amount of \$4,542.50 in its investigation and enforcement of the case.

¹ This conviction was not alleged as a charging allegation in the Accusation. It was offered and received solely as a factor in aggravation.

LEGAL CONCLUSIONS

1. Cause exists to discipline the respondent's license under Business and Professions Code sections 490 and 4301, subdivision (l), because she was convicted of a crime substantially related to the qualifications, functions and duties of a licensee. (Factual Findings, paragraphs 1 through 5; Legal Conclusions, paragraphs 4 through 6.)

2. Cause exists to discipline the respondent's license under Business and Professions Code sections 4301, subdivision (h), because she engaged in unprofessional conduct by consuming alcohol to the extent or in a manner as to be dangerous or injurious to herself or the general public. (Factual Findings, paragraphs 1 through 5; Legal Conclusions, paragraphs 4 through 6.)

3. Cause exists to award the complainant costs of investigation and enforcement pursuant to Business and Professions Code section 125.3. (Factual Findings, paragraph 9.)

4. Business and Professions Code section 490, subdivision (a), provides that a board may discipline a license on the ground that the licensee has been convicted of a crime if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

5. The Board shall discipline any licensee who is guilty of unprofessional conduct. Unprofessional conduct includes administering to oneself alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself or to any other person or to the public. (Bus. & Prof. Code, §4301, subd. (h).)

6. In this case, the respondent was convicted for the second time of driving under the influence of alcohol. This second offense is evidence of a present or potential unfitness to perform the functions authorized by the respondent's license in a manner consistent with the public health, safety, or welfare. (Cal. Code Regs. tit. 16, § 1770.) Because her blood alcohol content was twice the legal limit, the respondent consumed alcoholic beverages to an extent or in a manner as to be dangerous or injurious to herself and to the public. Accordingly, the respondent engaged in unprofessional conduct and her license is subject to discipline.

7. The respondent must establish rehabilitation under California Code of Regulations, title 16, section 1769, subdivision (c). This regulation sets forth the following criteria developed by the Board for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding has been initiated on account of a crime committed by the licensee:

- (1) Nature and severity of the act or offense.
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act or offense.

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

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

8. The respondent presented the following evidence of rehabilitation and mitigation:

(A) The nature of the conviction related to alcohol consumption. The severity of the offense was moderate because no actual harm was caused to the public. (*Id.*, at subd. (c)(1).)

(B) The respondent's total criminal history includes two criminal convictions for driving under the influence of alcohol. (*Id.*, at subd. (c)(2).)

(C) The respondent's most recent conviction occurred more than three years ago. Her first conviction occurred 10 years ago. (*Id.*, at subd. (c)(3).)

(D) Because the respondent was placed on 48 months of summary probation on February 7, 2011, she remains on probation until February 8, 2015. She has otherwise paid restitution and completed alcohol programs as ordered by the court. (*Id.*, at subd. (c)(4).)

(E) The respondent presented evidence of rehabilitation in the form of a character reference letter from a coworker who described the respondent as a reliable employee with excellent skills as a pharmacy technician. She has abstained from drinking for the past year and installed a device in her car to prevent a recurrence. The respondent credibly testified that she now recognizes the risks associated with driving under the influence of alcohol. (*Id.*, at subd. (b)(5).)

9. Nonetheless, the weight of the evidence is insufficient to show full rehabilitation. Although the respondent appears to have taken responsibility for her conduct, she has been under court supervision for the past three and a half years. Since people have a strong incentive to obey the law while under the supervision of the criminal justice system, little weight is placed on the fact that the respondent has engaged in good behavior while on probation. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.)

10. When all of the evidence is considered, however, outright revocation of the respondent's license would be unduly harsh. Although the respondent's conduct cannot be condoned, the respondent has demonstrated genuine remorse and a sincere desire to prevent a recurrence. Imposing discipline on the respondent's license is not intended to punish the respondent, but rather to further a particular social purpose: the protection of the public. (*Griffiths v. Superior Court* (2002) 96 Cal.App.4th 757.) To this end, the circumstances warrant terms and conditions to monitor the respondent's continuing rehabilitation for a period of three years.

11. The Board's model terms and guidelines require suspension and certification prior to resuming employment if revocation is not imposed. The respondent has worked in retail pharmacy for seven years without any record of employment discipline and she has no access to controlled substances as part of her job duties. No evidence was presented to show that the respondent was deficient in skill or competence so long as she controlled her impulse to consume alcohol. A suspension would serve no purpose in this single misdemeanor case in which there is no prior history of alcohol abuse or license discipline. Therefore, suspension and recertification would be unduly harsh and punitive. Accordingly, they will not be imposed.

12. Business and Professions Code section 125.3 provides, in part, that in any order issued in resolution of a disciplinary proceeding before any board, the administrative law judge may direct a licensee found to have committed a violation of the licensing act to pay the reasonable costs of the investigation and enforcement of the action.

13. The complainant has presented satisfactory proof that reasonable costs were incurred in the amount of \$4,542.50 to investigate and enforce the case against the respondent. Accordingly, the respondent is liable under Business and Professions Code section 125.3 for costs in the amount of \$4,542.50, payable in installments of no less than \$152 per month beginning in the month following the effective date of this decision and continuing until paid in full.

ORDER

Pharmacy Technician Registration Number TCH 86587, issued to Yoomi So, is revoked. However, the revocation is stayed for a period of three years, and the respondent is placed on probation under the following terms and conditions:

1. Obey All Laws

The respondent shall obey all state and federal laws and regulations.

The respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime

- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

2. Report to the Board

The respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, the respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

3. Interview with the Board

Upon receipt of reasonable prior notice, the respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear at two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

The respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of the respondent's compliance with the terms and conditions of her probation. Failure to cooperate shall be considered a violation of probation.

5. Notice to Employers

During the period of probation, the respondent shall notify all present and prospective employers of the decision in case number 4265 and the terms, conditions and restrictions imposed on the respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 15 days of the respondent undertaking any new employment, the respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during the respondent's tenure of employment) and owner to report to the Board in writing

acknowledging that the listed individual has read the decision in case number 4265 and the terms and conditions imposed thereby. It shall be the respondent's responsibility to ensure that her employer and supervisors submit timely acknowledgements to the Board.

If the respondent works for or is employed by or through a pharmacy employment service, the respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 4265 in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of the respondent undertaking any new employment by or through a pharmacy employment service, the respondent shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 4265 and the terms and conditions imposed thereby. It shall be the respondent's responsibility to ensure that her employer and supervisor submit timely acknowledgments to the Board.

Failure to timely notify a present or prospective employer or to cause the present or prospective employer to submit timely acknowledgements to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement or criterion for employment, whether the respondent is considered an employee, independent contractor or volunteer.

6. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, the respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$4,542.50. The respondent shall make said payments as follows:

- Installments of no less than \$152 per month beginning in the month following the effective date of this decision and continuing until paid in full.

There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Failure to pay costs by the deadlines as directed shall be considered a violation of probation.

The filing of bankruptcy by the respondent shall not relieve the respondent of her responsibility to reimburse the Board its costs of investigation and prosecution.

7. Probation Monitoring Costs

The respondent shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to pay such costs by the deadlines as directed shall be considered a violation of probation.

8. Status of License

The respondent shall, at all times while on probation, maintain an active, current pharmacy technician license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If the respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication the respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

9. License Surrender While on Probation or Suspension

Following the effective date of this decision, should the respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, the respondent may tender her pharmacy technician license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, the respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the Board.

Upon acceptance of the surrender, the respondent shall relinquish her pharmacy technician license to the Board within 10 days of notification by the Board that the surrender is accepted. The respondent may not reapply for any license, permit, or registration from the Board for three years from the effective date of the surrender. The respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

10. Notification of a Change in Name, Residence Address, Mailing Address or Employment

The respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule, if known. The respondent shall further notify the Board in writing within 10 days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the Board of any change in employer, name, address, or phone number shall be considered a violation of probation.

11. Tolling of Probation

Except during periods of suspension, the respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, the respondent must nonetheless comply with all terms and conditions of probation.

Should the respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician for a minimum of 80 hours per calendar month in California, the respondent must notify the Board in writing within 10 days of cessation of work and must further notify the Board in writing within 10 days of the resumption of the work. Any failure to provide such notification shall be considered a violation of probation.

It is a violation of probation for the respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months.

"Cessation of work" means calendar month during which the respondent is not working for at least 80 hours as a pharmacy technician, as defined in Business and Professions Code section 4115. "Resumption of work" means any calendar month during which the respondent is working as a pharmacy technician for at least 80 hours as a pharmacy technician as defined by Business and Professions Code section 4115.

12. Violation of Probation

If the respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over the respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If the respondent violates probation in any respect, the Board, after giving the respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay or revocation of the license. If a petition to revoke probation or an accusation is filed against the respondent during probation, the Board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

13. Completion of Probation

Upon written notice by the Board indicating successful completion of probation, the respondent's pharmacy technician license will be fully restored.

14. No Ownership of Licensed Premises

The respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. The respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board. Failure to timely divest any legal or beneficial interest or provide documentation thereof shall be considered a violation of probation.

15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups

Within 30 days of the effective date of this decision, the respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board or its designee. The respondent must attend at least one group meeting per week unless otherwise directed by the Board or its designee. The respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

16. Random Drug Screening

The respondent, at her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee. The respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the Board or its designee. At all times, the respondent shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the Board or its designee, the respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of work by the respondent. The respondent may not resume work as a pharmacy technician until notified by the Board in writing.

During suspension, the respondent shall not enter any pharmacy area or any portion of or any other Board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. The respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall the respondent manage, administer, or assist any licensee of the Board. The respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. The respondent shall not resume work until notified by the Board.

The respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, the respondent may continue to own or hold an interest in any licensed premises in which she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

17. Work Site Monitor

Within 10 days of the effective date of this decision, the respondent shall identify a work site monitor, for prior approval by the Board, who shall be responsible for supervising the respondent during working hours. The respondent shall be responsible for ensuring that the work site monitor reports in writing to the Board quarterly. Should the designated work site monitor determine at any time during the probationary period that the respondent has not maintained sobriety, he or she shall notify the Board immediately, either orally or in writing as directed. Should the respondent change employment, a new work site monitor must be designated, for prior approval by the Board, within 10 days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the Board, shall be considered a violation of probation.

18. Notification of Departure

Prior to leaving the probationary geographic area designated by the Board or its designee for a period greater than 24 hours, the respondent shall notify the Board verbally and in writing of the dates of departure and return. Failure to comply with this provision shall be considered a violation of probation.

19. Abstain from Drugs and Alcohol Use

The respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board or its designee, the respondent shall provide

documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation.

The respondent shall ensure that she is not in the same physical location as individuals who are using illicit substances even if the respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

DATED: November 19, 2014



MATTHEW GOLDSBY
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 ALVARO MEJIA
Deputy Attorney General
4 State Bar No. 216956
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0083
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4265

13 **YOOMI SO**
a.k.a., **YOO MI SO**
14 a.k.a., **YOO ME SO**
a.k.a., **YOO SO**
15 3 Mountain Shadows Place
Pomona, CA 91766

ACCUSATION

16 Pharmacy Technician Registration
17 No. TCH 86587

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about January 29, 2010, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 86587 to Yoomi So, a.k.a., Yoo Mi So, Yoo Me So, and Yoo
26 So (Respondent). The Pharmacy Technician Registration was in full force and effect at all times
27 relevant to the charges brought herein and will expire on June 30, 2015, unless renewed.

28 ///

1 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

6 4. Code section 490 states, in pertinent part:

7 "(a) In addition to any other action that a board is permitted to take against a licensee, a
8 board may suspend or revoke a license on the ground that the licensee has been convicted of a
9 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
10 or profession for which the license was issued.

11 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
12 discipline a licensee for conviction of a crime that is independent of the authority granted under
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
14 of the business or profession for which the licensee's license was issued.

15 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
16 conviction following a plea of nolo contendere. Any action that a board is permitted to take
17 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
18 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
19 made suspending the imposition of sentence, irrespective of a subsequent order under the
20 provisions of Section 1203.4 of the Penal Code."

21 5. Code section 4300 provides, in pertinent part, that every license issued by the
22 Board is subject to discipline, including suspension or revocation.

23 6. Code section 4300.1 provides, in pertinent part, that the expiration, cancellation,
24 forfeiture, or suspension of a board-issued license by placement of a license on a retire status,
25 voluntary surrender of a license shall not deprive the Board of jurisdiction to proceed with a
26 disciplinary action during the period within which the license may be renewed, restored, reissued
27 or reinstated.

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1 7. Code section 4301 states, in pertinent part:

2 "The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
4 Unprofessional 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 dangerous
7 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
8 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
9 to the extent that the use impairs the ability of the person to conduct with safety to the public the
10 practice authorized by the license.

11

12 "(l) The conviction of a crime substantially related to the qualifications, functions, and
13 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
15 substances or of a violation of the statutes of this state regulating controlled substances or
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
18 The board may inquire into the circumstances surrounding the commission of the crime, in order
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
22 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
23 of this provision. The board may take action when the time for appeal has elapsed, or the
24 judgment of conviction has been affirmed on appeal or when an order granting probation is made
25 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
26 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
27 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
28 indictment."

1 **REGULATORY PROVISIONS**

2 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

9 **COST RECOVERY**

10 9. Code section 125.3 states, in pertinent part, that the Board may request the
11 administrative law judge to direct a licentiate found to have committed a violation or violations of
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially Related Crime)**

16 10. Respondent is subject to disciplinary action under Code sections 4301, subdivision (l)
17 and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
18 Respondent was convicted of a crime substantially related to the qualifications, duties, and
19 functions, and duties of a pharmacy technician. On or about February 7, 2011, after pleading
20 nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code
21 section 23152, subdivision (b) [driving while having 0.08% and more, by weight, of alcohol in
22 her blood] in the criminal proceeding entitled *The People of the State of California v. Yoo Mi So*
23 (Super. Ct. Los Angeles County, 2011, No. 0BF05954). The Court sentenced Respondent to
24 serve three (3) days in Los Angeles County Jail and placed her on 48 months probation, with
25 terms and conditions. The circumstances surrounding the conviction are that on or about October
26 16, 2010, during a traffic stop by the California Highway Patrol Department, Respondent was
27 contacted. While speaking to Respondent the officer detected a strong odor of an alcoholic
28 beverage emitting from her breath. She was observed to have bloodshot water eyes and slow,

1 thick speech. When asked if she had consumed any alcoholic beverages, Respondent admitted to
2 having two beers. Respondent was subsequently arrested for violating Vehicle Code section
3 23152, subdivision (a) [driving under the influence of alcohol or drugs] and Vehicle Code section
4 23152, subdivision (b) [driving while having 0.08% and more, by weight, of alcohol in her
5 blood]. During the booking procedure resulted in a breath-alcohol content level of 0.15% on the
6 first reading and 0.16% on the second.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Dangerous Use of Alcohol)**

9 11. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
10 in that on or about October 16, 2010, Respondent used alcoholic beverage to an extent or in a
11 manner dangerous or injurious to herself, another person, or the public, when she operated a
12 vehicle while having more than 0.08% or more of alcohol in her blood. Complainant refers to,
13 and by this reference incorporates, the allegations set forth above in paragraph 10, as though set
14 forth fully.

15 **DISCIPLINARY CONSIDERATIONS**

16 12. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges as follows:

18 a. On or about November 23, 2004, Respondent was convicted of one misdemeanor
19 count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% and
20 more, by weight, of alcohol in her blood] in the criminal proceeding entitled *The People of the*
21 *State of California v. Yoo Mi So* (Super. Ct. Los Angeles County, 2004, No. 04NM11864). The
22 Court sentenced Respondent to serve one day in Los Angeles County Jail and place her on 3 years
23 probation, with terms and conditions. The circumstances surrounding the conviction are that on
24 or about July 25, 2004, Respondent drove a vehicle while under the influence of alcohol.

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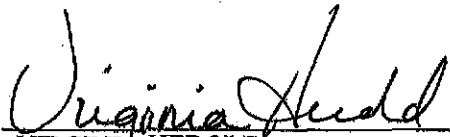
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 86587, issued to Respondent Yoomi So, a.k.a., Yoo Mi So, Yoo Me So, and Yoo So;
2. Ordering Respondent Yoomi So to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/6/13


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