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

12 In the Matter of the Accusation Against:

Agency Case No. 3809

13 **GLORIA L. CARR**
14 **12151 Bayport Street, Bld. 10, #204**
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.

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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.

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REGULATORY PROVISIONS

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

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(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:

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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**

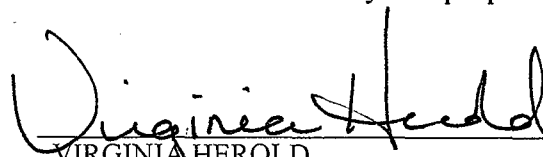
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Pharmacy issue a decision:

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



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

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