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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4109

11 **JANELLE SARAH BRAGER**
12 **731 Albanese Circle**
13 **San Jose, CA 95111**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 55046**

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2.e On or about January 30, 2004, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 55046 to Janelle Sarah Brager (Respondent). The Pharmacy Technician
23 License expired on August 31, 2011, and has not been renewed.

24 JURISDICTION

25 3.e This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code (Code) unless otherwise indicated.

28 ///

1 An initial breath test detected a blood alcohol level of 0.146%. Respondent refused to provide a
2 second breath sample. She was placed under arrest on suspicion of driving under the influence.
3 Also, in the car with Respondent were her son and his male cousin, both minor children. Blood
4 was drawn from Respondent at Dominican Hospital to further establish blood alcohol content.

5 b. On or about August 17, 2010, Respondent was charged by criminal Complaint
6 in *People v. Janelle Sarah Brager*, Case No. M54973 in Santa Cruz County Superior Court, with
7 violating (1) Vehicle Code section 23152(a) (Driving Under the Influence of Alcohol or Drugs), a
8 misdemeanor, and (2) Vehicle Code section 23152(b) (Driving with Blood Alcohol of 0.08% or
9 Higher), a misdemeanor, and with a special allegation that Respondent was driving with a minor
10 passenger under the age of fourteen (14) during the commission of the offense

11 c. On or about September 15, 2010, Respondent pleaded *nolo contendere* to Count
12 2, violation of Vehicle Code section 23152(b) (Driving with Blood Alcohol of 0.08% or Higher),
13 a misdemeanor. Count 1 was dismissed. Imposition of sentence was suspended in favor of a
14 conditional sentence of sixty (60) months on terms and conditions including 5 days in county jail
15 (2 days CTS), enrollment in a First Offender Drinking Driver Program, and fines and fees.

16
17 SECOND CAUSE FOR DISCIPLINE

18 (Conviction of Substantially Related Crime(s))

19 12. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
20 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
21 substantially related crime(s), in that on or about June 13, 2011, in the criminal case *People v.*
22 *Janelle Sarah Brager*, Case No. P10CRF0470 in El Dorado County Superior Court, Respondent
23 was convicted of violating both Penal Code section 273a(a) (Child Abuse and Endangerment), a
24 felony and Vehicle Code section 23152(b) (Driving with Blood Alcohol of 0.08% or Higher), a
25 misdemeanor. The conviction was entered as follows:

26 a. On or about November 7, 2010, California Highway Patrol officer(s) in the
27 Auburn/Placerville, CA area on SR-193 responding to report(s) of a collision and/or of a car off
28 the roadway found Respondent on the side of the road with side panel damage to her car and a flat

1 tire. Respondent had her five (5) year old son with her in the car. When the officer(s) contacted
2 Respondent, she gave confused and conflicting responses as to how she had come to be in that
3 location, but eventually admitted to having two collisions, the first where she side-swiped a trailer
4 attached to another vehicle, and the second where she attempted to drive her car with a flat tire it
5 incurred during the first collision and drove the car into a ditch at the side of the road.

6 b. The responding officer(s) noted that Respondent exhibited signs of intoxication
7 and administered Field Sobriety Tests (FSTs). Respondent failed the FSTs. The officer(s) took 2
8 breath samples from Respondent, which showed 0.19% and 0.18% blood alcohol, respectively.
9 Respondent was arrested, and her son was released into the custody of his grandparents.

10 c. On or about December 9, 2010, Respondent was charged in *People v. Janelle*
11 *Sarah Brager*, Case No. P10CRF0470 in El Dorado County Superior Court, with violating (1)
12 Penal Code section 273a(a) (Child Abuse and Endangerment), a felony; (2) Vehicle Code section
13 23152(a) (Driving Under the Influence of Alcohol or Drugs), a misdemeanor, and (3) Vehicle
14 Code section 23152(b) (Driving with Blood Alcohol of 0.08% or Higher), a misdemeanor, and
15 with a special allegation for having a blood alcohol content of 0.15% or more.

16 d. On or about June 13, 2011, Respondent pleaded no contest to Count 1, violation
17 of Penal Code section 273a(a) (Child Abuse and Endangerment), a felony, and Count 3, violation
18 of Vehicle Code section 23152(b) (Driving with BAC of 0.08% or Higher), a misdemeanor. She
19 also admitted the special allegation of having a blood alcohol content of 0.15% or more. Count 2
20 was dismissed. Imposition of sentence was suspended in favor of a period of formal probation of
21 four (4) years on terms and conditions including 180 days in county jail, with 90 days stayed and
22 90 days CTS, enrollment in a Trac II/Multiple Offender Drinking Driver Program, enrollment in a
23 52-week Parenting Class (with proof of attendance to the Court), and fines and fees.

24
25 THIRD CAUSE FOR DISCIPLINE

26 (Dangerous or Injurious Use of Alcohol)

27 13. Respondent is subject to discipline under section 4301(h) of the Code, in that as
28 described in paragraphs 11 and 12, Respondent used alcohol in a dangerous or injurious manner.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Dangerous or Injurious Use of Alcohol)

3 14. Respondent is subject to discipline under section 4301 (k) of the Code, in that as
4 described in paragraphs 11 and 12, Respondent was convicted of more than one misdemeanor or
5 any felony involving the use, consumption, or self-administration of alcohol.

6
7 FIFTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct)

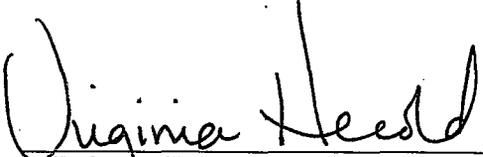
9 15. Respondent is subject to discipline under section 4301 of the Code in that, as
10 described in paragraphs 11 to 14, Respondent engaged in unprofessional conduct.

11
12 PRAYER

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

- 15 1. Revoking or suspending Pharmacy Technician License Number TCH 55046, issued
16 to Janelle Sarah Brager (Respondent);
- 17 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
18 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 19 3. Taking such other and further action as is deemed necessary and proper.

20
21 DATED: 11/16/11

22 
23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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