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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. 4348

13 **MONICA K. DHALIWAL**  
7771 Garden Park  
Chino, CA 91708

**A C C U S A T I O N**

14 Pharmacy Technician Registration  
No. TCH 95904

15 Respondent.

16  
17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about November 24, 2009, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 95904 to Monica K. Dhaliwal (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on March 31, 2015, unless renewed.

26 **JURISDICTION**

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

**STATUTORY PROVISIONS**

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4. Section 118, subdivision (b), provides in pertinent part, that the expiration 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 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke 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.

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

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code."

6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

7. Section 4301 states, in pertinent part:

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

....  
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1           "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
2 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
3 whether the act is a felony or misdemeanor or not.

4           . . . .

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

10          . . . .

11          "(j) The violation of any of the statutes of this state, or any other state, or of the United  
12 States regulating controlled substances and dangerous drugs.

13          . . . .

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

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
2 indictment."

3 **REGULATORY PROVISIONS**

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

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

11 **COST RECOVERY**

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

16 10. **CONTROLLED SUBSTANCE**

17 "Marijuana," is a schedule I controlled substance as defined in Health and Safety Code  
18 section 11054, subdivision (d)(13) and is categorized a dangerous drug pursuant to section 4022.

19 **FIRST CAUSE FOR DISCIPLINE**

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

21 11. Respondent is subject to disciplinary action under section 4301, subdivision (l) and  
22 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
23 Respondent was convicted of a crime substantially related to the qualifications, functions, and  
24 duties of a pharmacy technician. On or about July 7, 2011, after pleading nolo contendere,  
25 Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152,  
26 subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in her blood] in the  
27 criminal proceeding entitled *The People of the State of California v. Monica K. Dhaliwal* (Super.  
28 Ct. Los Angeles County, 2011, No. 1MP04638). The Court placed Respondent on 36 months

1 probation, with terms and conditions. The circumstances surrounding the conviction are that on  
2 or about April 22, 2011, during an investigation by the California Highway Patrol Department,  
3 Respondent was contacted. While speaking to Respondent, the officer detected an odor of an  
4 alcoholic beverage on her breath. She was observed to have red, watery eyes, and her speech was  
5 slurred. During the booking procedure Respondent submitted to breath test that resulted in a  
6 breath alcohol content level of 0.12% on the first reading and 0.11% on the second.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Acts Involving Dishonesty, Fraud, or Deceit)**

9 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in  
10 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or  
11 corruption with the intent to substantially benefit herself, or substantially injure another. On or  
12 about April 25, 2011, the Culver City Police Department conducted a traffic stop outside the  
13 Ramada Hotel where Respondent was contacted. While speaking to the Respondent, the officer  
14 smelled an odor of a burnt Marijuana emitting from the vehicle. Respondent admitted to smoking  
15 Marijuana and having some in her hotel room. She also indicated to officers that the room was  
16 under her name but her boyfriend had paid for it. Her boyfriend also admitted to having smoked  
17 Marijuana in the hotel room. The officers conducted a search of Respondent's boyfriend and  
18 located \$3,268.00 in cash, six Macy's gift cards, and a piece of paper dated 4/24 with handwritten  
19 account numbers and dollar amounts. Respondent granted the officers consent to search the hotel  
20 room where they found a "Fargo make to card" printer with several Macy's cards with and  
21 without account numbers and bar codes. The printer was connected to a laptop that had bar code  
22 on the screen similar to those that Respondent had in his possession. Officers also found  
23 \$2340.00 in cash and thirty-seven blank cards bearing no logos. Respondent was subsequently  
24 arrested for violating Penal Code section 484I, subdivision (i) [counterfeiting access cards].

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Dangerous Use of Alcohol)**

27 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), in  
28 that on or about April 22, 2011, Respondent used alcoholic beverages to an extent or in a manner

1 dangerous or injurious to herself, another person, or the public, when she operated a vehicle while  
2 having 0.08 % and more of alcohol in her blood. Complainant refers to, and by this reference  
3 incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Use/Under the Influence of a Controlled Substance)**

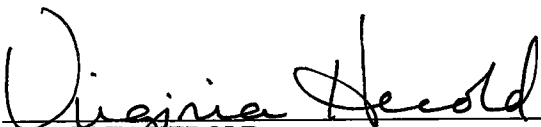
6 14. Respondent is subject to disciplinary action under section 4301, subdivision (h) and  
7 (j), in that or on about April 25, 2011, Respondent by her own admission used and/or was under  
8 the influence of a controlled substance. Complainant refers to, and by this reference incorporates,  
9 the allegations set forth above in paragraph 12, as though set forth in fully.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician Registration No. TCH 95904, issued  
14 to Monica K. Dhaliwal
- 15 2. Ordering Monica K. Dhaliwal to pay the Board the reasonable costs of the  
16 investigation and enforcement of this case, pursuant to section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18  
19  
20 DATED: 3/27/14

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

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