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STATUTORY PROVISIONS

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."

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6. Section 4300 provides, in pertinent part, that every license issued by the Board is
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7. Section 4301 states, in pertinent part:

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

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The conviction of a crime substantially related to the qualifications, functions, and "(1) 1 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 2 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 3 substances or of a violation of the statutes of this state regulating controlled substances or 4 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 5 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 6 The board may inquire into the circumstances surrounding the commission of the crime, in order 7 to fix the degree of discipline or, in the case of a conviction not involving controlled substances 8 or dangerous drugs, to determine if the conviction is of an offense substantially related to the 9 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 10 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 11 of this provision. The board may take action when the time for appeal has elapsed, or the 12 judgment of conviction has been affirmed on appeal or when an order granting probation is made 13 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 14 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 15guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 16 indictment." 17

REGULATORY PROVISIONS

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

COST RECOVERY

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9. Section 125.3 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.

CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

10. Respondent is subject to disciplinary action under section 4301, subdivision (1) and 5 490, in conjunction with California Code of Regulations, title 16, section 1770, in that 6 Respondent was convicted of a crime substantially related to the qualifications, functions, and $\overline{7}$ duties of a pharmacy technician. On or about April 13, 2012, after pleading nolo contendere, 8 Respondent, was convicted of one felony count of violating Penal Code section 192, subdivision 9 (c)(1) [vehicular manslaughter with gross negligence] and five misdemeanor counts of Vehicle 10 11 Code section 23104, subdivision (a) [reckless driving with bodily injury] in the criminal proceeding entitled The People of the State of California v. Charlie Guzman (Super, Ct. Los 12 13 Angeles County, 2012, No. KA097171.) The Court sentenced Respondent to serve 2 years in State Prison as to count one and 150 days in Los Angeles County Jail as to counts 2 through 6. 14 15 probation was denied. The circumstances surrounding the conviction are that on or about April 16 28, 2011, during an investigation of a traffic collision, by the California Highway Patrol, 17 Respondent was contacted. Respondent travelled at an unsafe speed, failed to maintain his car 18 within his lane, making an unsafe lane change, and collided into another vehicle causing it to hit the center divider and overturn several times. Passengers were transported to the hospital for 19 treatment. One of the passengers was transported to Foothill Presbyterian Hospital where she was 20 pronounced deceased. 21 III22 23 11 24 III

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Accusation

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1 2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board issue a decision:
	1. Revoking or suspending Pharmacy Technician Registration No. TCH 115741, issued
4 5	to Respondent;
	2. Ordering Charlie Guzman to pay the Board the reasonable costs of the investigation
6	and enforcement of this case, pursuant to section 125.3; and
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8	3. Taking such other and further action as deemed necessary and proper.
9	DATED: 12413 Jusine des
10	VIRGINIA HEROLD Executive Officer
11	Board of Pharmacy Department of Consumer Affairs
12	State of California Complainant
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