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

12 In the Matter of the Accusation Against:  
13 **LEIGH ANN HANDEL**  
**PO Box 1212**  
14 **Pine Valley, CA 91962**  
15 **Pharmacy Technician Registration No. TCH 121082**  
16 Respondent.

Case No. 4499  
**A C C U S A T I O N**

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
22 2. On March 22, 2012, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 121082 to Leigh Ann Handel (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on November 30, 2013, unless renewed.

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1 is substantially related to the qualifications, functions, and duties of the licensee in  
2 question.

3 As used in this section, 'license' includes 'certificate,' 'permit,'  
4 'authority,' and 'registration.'

5 9. Section 4301 of the Code states:

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

10 . . . .

11 (h) The administering to oneself, of any controlled substance, or the use of  
12 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
13 dangerous or injurious to oneself, to a person holding a license under this chapter,  
14 or to any other person or to the public, or to the extent that the use impairs the  
15 ability of the person to conduct with safety to the public the practice authorized by  
16 the license.

17 . . . .

18 (I) 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  
20 a 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  
22 this state regulating controlled substances or dangerous drugs shall be conclusive  
23 evidence of unprofessional conduct. In all other cases, the record of conviction  
24 shall be conclusive evidence only of the fact that the conviction occurred. The  
25 board may inquire into the circumstances surrounding the commission of the  
26 crime, in order to fix the degree of discipline or, in the case of a conviction not  
27 involving controlled substances or dangerous drugs, to determine if the conviction  
28 is of an offense 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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1 **REGULATORY PROVISIONS**

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

3 . . . .

4 (b) When considering the suspension or revocation of a facility or a  
5 personal license on the ground that the licensee or the registrant has been  
6 convicted of a crime, the board, in evaluating the rehabilitation of such person and  
7 his present eligibility for a license will consider the following criteria:

8 (1) Nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) The time that has elapsed since commission of the act(s) or  
11 offense(s).

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

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

15 11. California Code of Regulations, title 16, section 1770, states:

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

23 **COST RECOVERY**

24 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
25 the administrative law judge to direct a licentiate found to have committed a violation or  
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
27 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
28 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
may be included in a stipulated settlement.

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**FIRST CAUSE FOR DISCIPLINE**

**(September 17, 2012 Criminal Conviction for DUI on May 31, 2012)**

13. Respondent subjected her pharmacy technician registration to discipline under Code sections 490 and 4301, subdivision (l) in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered pharmacy technician. The circumstances are as follows:

a. On September 17, 2012, in a criminal proceeding entitled *The People of the State of California vs. Leigh Ann Handel*, in San Diego County Superior Court East County Division, Case Number C322092, Respondent was convicted on her plea of guilty to violating Vehicle Code (VC) 23152 subdivision (a), driving under the combined influence of alcohol and a drug (DUI), a misdemeanor. Respondent admitted and the court found true the allegation that Respondent's BAC was .15% or more, a sentencing enhancement pursuant to VC section 23578. Respondent was also charged with violation of VC section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or more, a misdemeanor, which was dismissed pursuant to a plea bargain.

b. As a result of the conviction, on September 17, 2012, Respondent was sentenced to summary probation for five years and ordered to render 15 days of community service under the public service program, with credit for one day actually served; pay penalty assessments, fines, and fees; and attend and satisfactorily complete a nine-month first conviction DUI program.

c. The facts that led to the conviction are that on May 31, 2012, an officer of the California Highway Patrol (CHP) responded to a vehicular collision, which involved Respondent's car at the east-bound side of interstate highway 8, west of Tavern Road in Alpine, California. At or about 10:05 p.m., upon contact with Respondent, who was standing up and leaning at the right side of the vehicle, the officer immediately noticed her red watery eyes. Emergency personnel arrived and Respondent was taken to Grossmont Hospital for additional medical treatment. The officer continued his investigation of Respondent's vehicle where an empty 12 ounce can of beer was found on the floor. The officer proceeded to the hospital and

1 continued interviewing Respondent, who admitted to driving alone, with no recollection of the  
2 collision, and of consuming one bottle of red wine between 2:00 p.m. and 8:30 p.m. Respondent  
3 failed the field sobriety tests (FST) as explained and demonstrated and refused to perform the  
4 preliminary alcohol screening test (PAS). However, Respondent consented to a blood draw and  
5 upon clearance, was transported and booked into the Las Colinas Detention Facility. Results of  
6 Respondent's blood test indicated a BAC of .26 percent.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Dangerous Use Of Alcohol)**

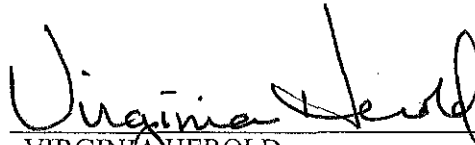
9 14. Respondent subjected her pharmacy technician registration to discipline under  
10 Code sections 490 and 4301, subdivision (h) in that on May 31, 2012, she used alcohol to the  
11 extent and in a manner that was dangerous and injurious to herself and to the public, as described  
12 in the cause above, which is incorporated by reference.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration Number TCH  
17 121082, issued to Leigh Ann Handel;
- 18 2. Ordering Leigh Ann Handel to pay the Board of Pharmacy the reasonable costs of  
19 the investigation and enforcement of this case, pursuant to Business and Professions Code  
20 section 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.
- 22

23  
24 DATED: 3/21/13

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

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