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6	Telephone: (415) 703-5548 Facsimile: (415) 703-5480		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
o 9			
10	STATE OF CALL	FORMA	
11	In the Matter of the Accusation Against:	Case No. 4713	
12	ELIZABETH ANN RHOADS	ACCUSATION	
13	1156 Susan Way Sunnyvale, CA 94087		
14	Pharmacy Technician Registration No. TCH 11461		
15	Respondent		
16]	
17	Complainant alleges:		
18	PARTIES		
19	1. Virginia Herold (Complainant) brings this	Accusation solely in her official capacity	
20	as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.		
21	2. On or about January 19, 1994, the Board i	ssued Pharmacy Technician Registration	
22	Number TCH 11461 to Elizabeth Ann Rhoads (Respo	ndent). The Pharmacy Technician	
23	Registration was in full force and effect at all times rel	evant to the charges brought herein and	
24	will expire on April 30, 2015, unless renewed.		
25	JURISDICTI	<u>ON</u>	
26	3. This Accusation is brought before the Boa	rd under the authority of the following	
27	laws. All section references are to the Business and P	rofessions Code (Code) unless otherwise	
28	indicated.		
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	1	Accusatio	

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1	4. Code section 4011 provides that the Board shall administer and enforce both the	
2	Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act	
3	[Health & Safety Code, § 11000 et seq.].	
4	5. Code section 4300(a) provides that every license issued by the Board may be	
5	suspended or revoked.	
6	6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or	
7	suspension of a Board-issued license, the placement of a license on a retired status, or the	
8	voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to	
9	commence or proceed with any investigation of, or action or disciplinary proceeding against, the	
10	licensee or to render a decision suspending or revoking the license.	
11	STATUTORY AND REGULATORY PROVISIONS	
12	7. Code section 4301 provides, in pertinent part, that the Board shall take action against	
13	any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be	
14	limited to, any of the following:	
15	(h) The administering to oneself, of any controlled substance, or the use	
16	of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or	
17	to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.	
18	· · ·	
19	(1) The conviction of a crime substantially related to the qualifications,	
20	functions, and duties of a licensee under this chapter. The record of conviction of 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 this state regulating controlled substances or dangerous drugs shall be conclusive	
22	evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may	
23	inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled	
24	substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this	
25	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	
26	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	
27 28	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	
20	dismissing the accusation, information, or indictment.	

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2	8. California Code of Regulations, title 16, section 1770, provides in pertinent part that,	
3	for the purpose of denial, suspension, or revocation of a personal or facility license, a crime or act	
4	shall be considered substantially related to the qualifications, functions or duties of a licensee or	
5	registrant if to a substantial degree it evidences present or potential unfitness of a licensee or	
6	registrant to perform the functions authorized by her license or registration in a manner consistent	
7	with the public health, safety, or welfare.	
8	COST RECOVERY	
9	9. Code section 125.3 provides, in pertinent part, that the Board may request the	
10	administrative law judge to direct a licentiate found to have committed a violation or violations of	
11	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
12	enforcement of the case.	
13	FIRST CAUSE FOR DISCIPLINE	
14	(Conviction of a Substantially Related Crime)	
15	10. Respondent is subject to discipline under Code section 4301, subdivision (l), for	
16	unprofessional conduct in that she was convicted of a crime substantially related to the	
17	qualifications, functions and duties of a pharmacy technician, as follows:	
18	11. On or about December 10, 2012, in Santa Clara County Superior Court, case number	
19	B1260529, Respondent was convicted of having violated Penal Code section 273a, subdivision	
20	(b) (child endangerment/infliction of unjustifiable pain and suffering). Respondent was sentenced	
21	to serve 30 days in jail, placed on 4 years of formal probation, and ordered to complete a 32-week	
22	parenting program, submit to 90 days of SCRAM (secure continuous remote alcohol monitoring),	
23	refrain from corporal punishment of her children, and relinquish her handgun for destruction,	
24	among other conditions of probation. The conviction arose from Respondent's arrest at her	
25	children's school after they reported to a Santa Clara County Sheriff's Deputy and a Department	
26	of Family and Children's Services social worker numerous episodes of physical and emotional	
27	abuse by Respondent exacerbated by her use or abuse of alcohol. Respondent admitted that her	
28	alcoholism drives her to act violently.	
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1	SECOND CAUSE FOR DISCIPLINE	
2	(Dangerous/Injurious/Unsafe Use of Alcohol)	
3	12. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),	
4	for unprofessional conduct in that she used alcoholic beverages in a manner dangerous or	
5	injurious to herself or others, and/or to the extent that such use impaired her ability to safely	
6	practice as a pharmacy technician, as described in paragraph 11, above.	
7	PRAYER	
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
9	and that following the hearing, the Board of Pharmacy issue a decision:	
10	1. Revoking or suspending Pharmacy Technician Registration Number TCH 11461	
11	issued to Elizabeth Ann Rhoads;	
12	2. Ordering Elizabeth Ann Rhoads to pay the Board of Pharmacy the reasonable costs of	
13	the investigation and enforcement of this case, pursuant to Business and Professions Code section	
14	125.3;	
15	3. Taking such other and further action as deemed necessary and proper.	
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17		
18	DATED: 8/14/13 VIRGINIA HEROLD	
19	Executive Officer Board of Pharmacy	
20	Department of Consumer Affairs State of California	
21	Complainant	
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