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

10 In the Matter of the Accusation Against:

Case No. 4715

11 **ROBERT MANN**
12 **1224 Spencer Avenue**
13 **Santa Rosa, CA 95404**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 63886**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

20 2. On or about August 3, 2005, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 63886 to Robert Mann (Respondent). The License was in force and effect at all
22 times relevant to the charges brought herein and will expire on March 31, 2015, unless renewed.

23
24 JURISDICTION

25 3. 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.

1 crime or act shall be considered substantially related to the qualifications, functions or duties of a
2 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
3 licensee or registrant to perform the functions authorized by her license or registration in a
4 manner consistent with the public health, safety, or welfare.”

5
6 COST RECOVERY

7 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation of the licensing
9 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

10
11 FIRST CAUSE FOR DISCIPLINE

12 (Conviction of Substantially Related Crime(s))

13 11. Respondent is subject to discipline under section 4301(l) and/or section 490 of the
14 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
15 substantially related crime(s), in that on or about August 1, 2012, in the criminal case *People v.*
16 *Robert W. Mann*, Case No. SCR-620165 in Sonoma County Superior Court, Respondent was
17 convicted of violating Vehicle Code section 23152(b) (Driving with Blood Alcohol of 0.08% or
18 Higher), a misdemeanor. The conviction was entered as follows:

19 a. On or about June 16, 2012, California Highway Patrol officer(s) in the Santa
20 Rosa, CA area observed a white Mazda pick-up truck traveling with a current registration sticker
21 (expiring November 2012), for which registration records showed that the vehicle registration
22 was actually expired as of November 2011. The officer(s) stopped the vehicle, and contacted the
23 driver (Respondent). The officer(s) detected the smell of alcohol coming from the vehicle, and
24 observed other symptoms of Respondent’s speech and demeanor that raised the suspicion of his
25 having been drinking. The officer(s) administered Field Sobriety Tests (FSTs) to Respondent,
26 which he was not able to perform correctly, and a Preliminary Alcohol Screening (PAS) device
27 measured his blood alcohol level at 0.129% and 0.131% BAC. Respondent was placed under
28 arrest, and provided two breath samples that registered at 0.13% and 0.12% BAC.

1 b. After Respondent was transported to the Sonoma County Jail, and while he was
2 going through the booking process, a small plastic bag containing a white powdery substance fell
3 out of Respondent's right sock, which was subsequently identified as **cocaine** (3.8 grams gross).

4 c. On or about June 20, 2012, in *People v. Robert Wiley Mann*, Case No. SCR-
5 620165 in Sonoma County Superior Court, Respondent was charged by Felony Complaint with
6 violating (1) Health and Safety Code section 11350, subdivision (a) (Possession of Controlled
7 Substance – **cocaine**), a felony; (2) Penal Code section 4573 (Bringing or Sending Controlled
8 Substance into Detention Facility), a felony; (3) Vehicle Code section 23152, subdivision (a)
9 (Driving Under the Influence of Alcohol/Drug), a misdemeanor; and (4) Vehicle Code section
10 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or Higher), a misdemeanor.

11 d. On or about August 1, 2012, Respondent entered a guilty plea as to Count 1
12 (violation of Health and Safety Code section 11350, subdivision (a)), and a no contest plea as to
13 Count 4 (violation of Vehicle Code section 23152, subdivision (b)). The remaining counts were
14 dismissed pursuant to the plea. As to Count 1, Respondent was granted a Deferred Entry of
15 Judgment (DEJ) pursuant to Penal Code section 1000 et seq. As to Count 4, Respondent was
16 found guilty, imposition of sentence was suspended, and he was given a conditional sentence of
17 thirty-six (36) months (probation), on terms and conditions including two (2) days in jail (1 day
18 CTS), completion of a First Offender Drinking Driver Program, fines and fees.

19 20 SECOND CAUSE FOR DISCIPLINE

21 (Dangerous or Injurious Use of Alcohol)

22 12. Respondent is subject to discipline under section 4301(h) of the Code, in that as
23 described in paragraph 11, Respondent used alcohol in a dangerous or injurious manner.

24 25 THIRD CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct)

27 13. Respondent is subject to discipline under section 4301 of the Code in that, as
28 described in paragraphs 11 and 12, Respondent engaged in unprofessional conduct.

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PRAYER

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

1. Revoking or suspending Pharmacy Technician License No. TCH 63886, issued to Robert Mann (Respondent);
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 9/6/13 Virginia Herold

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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