1	KAMALA D. HARRIS Attorney General of California		
2	KENT D. HARRIS Supervising Deputy Attorney General STEPHANIE ALAMO-LATIF		
3			
4	Deputy Attorney General State Bar No. 283580 1300 I Street, Suite 125		
5	P.O. Box 944255		
6	Sacramento, CA 94244-2550 Telephone: (916) 327-6819 Facsimile: (916) 327-8643		
7	E-mail: Stephanie.AlamoLatif@doj.ca.gov Attorneys for Complainant		
9	DEEO	הוצויון הרכ	
10	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
11	STATE OF CALIFORNIA		
12	In the Matter of the Acquestion Against	Case No. 4765	
13	In the Matter of the Accusation Against:	Case No. 4703	
14	ANA J. ESTRADA 3029 E. Illinois Ave.	ACCUSATION	
15	Fresno, CA 93701 Pharmacy Technician Registration No.	ACCUSATION	
16	59881		
17	Respondent.		
18			
19	Virginia Herold ("Complainant") alleges:		
20	PARTIES		
21	1. Complainant brings this Accusation solely in her official capacity as the Executive		
22	Officer of the Board of Pharmacy, Department of Consumer Affairs.		
23	2. On or about August 5, 2005, the Board of Pharmacy issued Pharmacy Technician		
24	Registration Number 59881 to Ana J. Estrada ("Respondent"). The Pharmacy Technician		
25	Registration was in full force and effect at all times relevant to the charges brought herein and will		
26	expire on July 31, 2015, unless renewed.		
27			
28	\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\		
		1	

JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated,
- 4. Code section 4300 states, in pertinent part, that every license issued may be suspended or revoked.
 - 5. Code section 4300.1 states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTORY PROVISIONS

6. Code section 4301 states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

(h) The use of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, or 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.

- "(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances."
- (1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

///

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency."

COST RECOVERY

7. Code section 125.3 provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Crime)

- 8. Respondent is subject to discipline under Code section 4301, subdivision (*I*), in that on or about December 19, 2011, in the case of *People v. Ana Jael Estrada* (Superior Court of Fresno County Case No. M11920998), Respondent was convicted on her plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b) (Driving with a 0.08% or higher BAC), a misdemeanor, and Vehicle Code section 14601.2, subdivision (a) (Driving while Privilege Suspended for Prior DUI Conviction), a misdemeanor. Per the parties' stipulation, Respondent admitted to two prior misdemeanor convictions on April 7, 2009 (Superior Court, San Luis Obispo Case No. M430260) and December 19, 2011¹ (Superior Court, Fresno Case No. M10915008), for violating Vehicle Code section 23152, subdivision (b) (Driving with a 0.08% or higher BAC). Respondent also admitted that her BAC was .19%. The facts and circumstances are as follows:
- 9. On or about September 25, 2011, a highway patrol officer observed a vehicle weaving in and out of its lane in Fresno County. An enforcement stop was initiated and the driver was

¹ Case Number M10915008 was based on Respondent's arrest on February 8, 2010. This case ran concurrently with Case Number M11920998. Per the Respondent's plea agreement, she was convicted in Case Number M10915008 on December 19, 2011, and this conviction served as a prior in Case Number M11920998, with the same conviction date of December 19, 2011.

identified as Respondent. The officer could smell the odor of alcohol emitting from the vehicle and from Respondent. Respondent admitted to the officer to drinking several alcoholic beverages. A series of field sobriety tests were administered which Respondent did not complete as demonstrated. Her Blood Alcohol Content (BAC) was recorded variously within fifteen minutes as .158%, .168%, and .13%.

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

10. Respondent is subject to discipline under Code section 4301, subdivision (h), for unprofessional conduct, in that on or about September 25, 2011, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself and the public when she operated a vehicle while under the influence of alcohol, as more fully set forth above in paragraphs 8 and 9.

THIRD CAUSE FOR DISCIPLINE

(Conviction of More than One Misdemeanor Involving Use of Alcoholic Beverages)

11. Respondent is subject to disciplinary action under section 4301, subdivision (k), for unprofessional conduct, in that on or about April 7, 2009 and December 19, 2011, Respondent was convicted of misdemeanor violations of Vehicle Code section 23152, subdivision (b), as more fully set forth above in paragraphs 8 and 9.

FOURTH CAUSE FOR DISCIPLINE

(Violating laws of pharmacy)

12. Respondent is subject to discipline under Code section 4301, subdivision (o), in that Respondent violated the laws and regulations governing pharmacy, as more fully set forth above in paragraphs 8 through 11.

DISCIPLINE CONSIDERATIONS

13. To determine the degree of discipline to be imposed on Respondent, Complainant alleges that effective on or about December 10, 2010, in a prior action, the Board of Pharmacy issued Citation Number CI 2008 39499, based on Respondent's conviction on April 7, 2009, in the matter of *People v. Ana Jael Estrada* (Superior Court, San Luis Obispo County Case No.

1	M000430260), of violation of Vehicle Code 23152, subdivision (b) (DUI with 0.08% or higher	
2	BAC), a misdemeanor.	
3	PRAYER	
4	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
5	and that following the hearing, the Board of Pharmacy issue a decision:	
6	1. Revoking or suspending Pharmacy Technician Registration Number 59881, issued to	
7	Ana J. Estrada.;	
8	2. Ordering Ana J. Estrada to pay the Board of Pharmacy the reasonable costs of the	
9	investigation and enforcement of this case, pursuant to Business and Professions Code section	
10	125.3;	
11	3. Taking such other and further action as deemed necessary and proper.	
12		
13		
14	DATED: 10/2//13 VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs	
15		
16		
17	State of California Complainant	
18		
19	SA2013112054 11151585.doc	
20		
21		
22		
23		
24		
25		
26		
27		
28		