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

12 In the Matter of the Accusation Against:

Case No. 4776

13 **DANIEL QUIROZ, JR.**
14 **4027 Estrella Avenue B**
San Diego, CA 92105

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 109101**
16 **Pharmacy Technician Registration No. TCH 130305**

17 Respondent.

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 February 25, 2011, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 109101 to Daniel Quiroz, Jr. (Respondent). Respondent has also been
24 known as Daniel Quiroz. Pharmacy Technician Registration Number TCH 109101 expired on
25 July 31, 2012, and has not been renewed.
- 26 3. On February 11, 2013, the Board of Pharmacy issued Pharmacy Technician
27 Registration Number TCH 130305 to Respondent. Pharmacy Technician Registration Number
28 TCH 130305 expired on July 11, 2013, and has not been renewed.

1 pertaining to an arrest. This section shall not be construed to apply to any drug
2 diversion program operated by any agency established under Division 2
3 (commencing with Section 500) of this code, or any initiative act referred to in
4 that division.

4 10. Section 4301 of the Code states:

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

8

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

12

13 (i) The conviction of a crime substantially related to the qualifications,
14 functions, and duties of a licensee under this chapter. The record of conviction of
15 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
16 United States Code regulating controlled substances or of a violation of the
17 statutes of this state regulating controlled substances or dangerous drugs shall be
18 conclusive evidence of unprofessional conduct. In all other cases, the record of
19 conviction shall be conclusive evidence only of the fact that the conviction
20 occurred. The board may inquire into the circumstances surrounding the
21 commission of the crime, in order to fix the degree of discipline or, in the case of
22 a conviction not involving controlled substances or dangerous drugs, to determine
23 if the conviction is of an offense substantially related to the qualifications,
24 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
25 a conviction following a plea of nolo contendere is deemed to be a conviction
26 within the meaning of this provision. The board may take action when the time
27 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
28 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 11. California Code of Regulations, title 16, section 1769, states:

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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 12. 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 13. 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.

FIRST CAUSE FOR DISCIPLINE

(April 22, 2013 Conviction for Driving With a BAC of .08% or More on January 25, 2013)

14. Respondent has subjected his pharmacy technician registrations to discipline under
Code sections 490 and 4301, subdivision (l), in that he was convicted of a crime that is

1 substantially related to the qualifications, functions, and duties of a registered pharmacy
2 technician. The circumstances are as follows:

3 a. On April 22, 2013, in a criminal proceeding entitled *The People of the*
4 *State of California vs. Daniel Quiroz, Jr., aka Daniel Quiroz*, in San Diego County Superior
5 Court, Central Division, Central Courthouse Case Number M163909, Respondent was convicted
6 on his plea of guilty to violating Vehicle Code (VC) 23152, subdivision (b), driving with a blood
7 alcohol concentration (BAC) of 0.08 percent or more, a misdemeanor. Charges for violating VC
8 sections 23152, subdivision (a), driving under the influence of alcohol (DUI) and 23103,
9 subdivision (a), reckless driving, misdemeanors, were dismissed as a result of a plea bargain.

10 b. As a result of the conviction, on April 22, 2013, Respondent was granted
11 five years summary probation and sentenced to serve 10 days, with credit for one day actually
12 served and pay a fine of \$2,123.00 in lieu of rendering 22 additional days under the public
13 service program, which was suspended. Respondent was also ordered to pay restitution and fees,
14 and attend and satisfactorily complete a nine-month first offender alcohol and other drug
15 education and counseling program, and a Mothers Against Drunk Driving (MADD) Victim
16 Impact Panel.

17 c. The facts that led to the conviction are that on January 25, 2013,
18 Respondent was driving over the speed limit along Orange Avenue in San Diego, California and
19 passed the patrol vehicle of two San Diego Police Department officers. The officers positioned
20 their patrol vehicle behind Respondent's, which turned into Estrella Avenue at a speed of about
21 40 miles per hour. The posted speed for Estrella Avenue was 25 miles per hour. The officers then
22 activated their forward red lights to initiate an enforcement stop. Respondent yielded and during
23 the initial contact the officers observed Respondent's blood shot and watery eyes, with dilated
24 pupils. Respondent smelled of alcohol, had an unsteady gait, and his speech was slurred and hard
25 to understand. Respondent became extremely hostile and initially refused to provide breath or
26 blood samples. Respondent was transported to the San Diego Police Department Headquarters
27 where he provided a blood sample, which upon testing indicated a BAC of .26 percent.

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