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

11 Case No. 4805

12 In the Matter of the Accusation Against:

**A C C U S A T I O N**

13 **DAVID WAYNE STEEN**  
1796 Palisades Dr.  
14 Pacific Palisades, CA 90272  
15 Pharmacy Technician Registration  
No. TCH 64086

16 Respondent.

17  
18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 10, 2005, the Board of Pharmacy (Board) issued Pharmacy  
24 Technician Registration No. TCH 64086 to David Wayne Steen (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on November 30, 2014, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following laws.  
3 All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
11 discipline a licensee for conviction of a crime that is independent of the authority granted under  
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of  
13 the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
18 made suspending the imposition of sentence, irrespective of a subsequent order under the  
19 provisions of Section 1203.4 of the Penal Code."

20 5. Section 4300 provides in pertinent part, that every license issued by the Boards is  
21 subject to discipline, including suspension or revocation.

22 6. Section 4300.1 states:

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

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1           7.     Section 4301 states, in pertinent part:

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

5           . . . .

6           "(f)   The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
7     corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
8     whether the act is a felony or misdemeanor or not.

9           . . . .

10          "(l)   The conviction of a crime substantially related to the qualifications, functions, and  
11     duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
12     (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
13     substances or of a violation of the statutes of this state regulating controlled substances or  
14     dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
15     record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
16     The board may inquire into the circumstances surrounding the commission of the crime, in order to  
17     fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
18     dangerous drugs, to determine if the conviction is of an offense substantially related to the  
19     qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
20     a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
21     of this provision. The board may take action when the time for appeal has elapsed, or the  
22     judgment of conviction has been affirmed on appeal or when an order granting probation is made  
23     suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
24     the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
25     guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
26     indictment."

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28     ///

1 **REGULATORY PROVISIONS**

2 8. California Code of Regulations, title 16, section 1770, states:

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

9 **COST RECOVERY**

10 9. Section 125.3 states, in pertinent part, that the Board may request the administrative  
11 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
12 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
13 case.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially Related Crime)**

16 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
17 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,  
18 Respondent was convicted of a crime substantially related to the qualifications, functions or duties  
19 of a pharmacy technician as follows:

20 a. On or about February 8, 2013, after pleading nolo contendere, Respondent was  
21 convicted of one misdemeanor count of violating Penal code section 242-243, subdivision (E)(1)  
22 [battery] in the criminal proceeding entitled *The People of the State of California v. David Wayne*  
23 *Steen* (Super. Ct. Los Angeles County, 2013, No. 2WA02484.) The Court sentenced Respondent  
24 to serve 30 days in Los Angeles County Jail and placed him on 36 months probation, with terms  
25 and conditions.

26 b. The circumstances surrounding the conviction are that on or about August 7, 2012,  
27 Respondent, while under the influence of alcohol, physically assaulted his wife after she refused to  
28 watch a television show with him. While informing officers from the Los Angeles Police

1 Department about the circumstances surrounding the incident, Respondent's wife told the  
2 investigating officers that Respondent, who was very intoxicated at the time, had become very  
3 angry and proceeded to grab her by the left wrist and throw her to the floor, causing extreme pain  
4 to her left shoulder and her left wrist to go numb. Respondent's wife further stated that  
5 Respondent then jumped on top of her and began to slap her with an open hand. According to  
6 Respondent's wife, Respondent then grabbed the lid to a container of facial crème she was using at  
7 the time and began to hit and scrape her with it about the face. The incident caused Respondent's  
8 wife to sustain a fractured left wrist, and abrasions and contusions to her face and neck.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Act Involving Moral Turpitude)**

11 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that  
12 Respondent committed an act involving moral turpitude (battery on spouse) with the intent to  
13 substantially injure another. Complainant refers to, and by reference incorporates, the allegations  
14 set forth above in paragraph 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

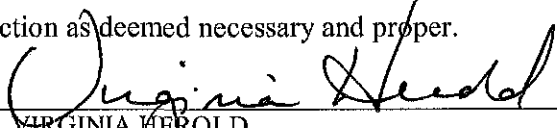
15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration No. TCH 64086, issued to  
19 David Wayne Steen;
- 20 2. Ordering David Wayne Steen to pay the Board the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to section 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: \_\_\_\_\_

5/8/14

24   
25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant