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

12 In the Matter of the Accusation Against:

Case No. 4823

13 **VALERIE CHERE LEA**  
17996 Lemon St.  
Hesperia, CA 92345

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

14 Pharmacy Technician Registration  
15 No. TCH 94938

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 14, 2010, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 94938 to Valerie Chere Lea (Respondent). The Pharmacy  
24 Technician Registration expired on July 31, 2013, and has not been renewed.

25 **JURISDICTION**

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

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1 STATUTORY PROVISIONS

2 4. Section 490 states, in pertinent part:

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

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

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

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

19 6. Section 4300.1 states:

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

25 7. Section 4301 states, in pertinent part:

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

1           ....

2           "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
3 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
4 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
5 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
6 practice authorized by the license.

7           ....

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

25           ....

26           "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable

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1 federal and state laws and regulations governing pharmacy, including regulations established by  
2 the board or by any other state or federal regulatory agency."

### 3 REGULATORY PROVISIONS

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

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

### 11 COST RECOVERY

12 9. Section 125.3 provides, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licentiate found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
16 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
17 included in a stipulated settlement.

### 18 FIRST CAUSE FOR DISCIPLINE

#### 19 **(Conviction of a Substantially Related Crime)**

20 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
21 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,  
22 Respondent was convicted of a crime substantially related to the qualifications, functions or  
23 duties of a pharmacy technician as follows:

24 a. On or March 18, 2013, after pleading guilty, Respondent was convicted of one  
25 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while  
26 having 0.08% or more, by weight, of alcohol in her blood] in the criminal proceeding entitled *The*  
27 *People of the State of California v. Valerie Chere Lea* (San Bernardino County Superior Court  
28

1 Case No. TVI300009). The Court sentenced Respondent to serve 10 days in San Bernardino  
2 County Jail and placed her on 36 months probation, with terms and conditions.

3 b. The circumstances surrounding the conviction are that on or about September 30,  
4 2012, Respondent was in a single vehicle traffic collision with a telephone pole. While speaking  
5 to Respondent, the officer detected a strong odor of an alcoholic beverage coming from her  
6 breath. She was observed to have watery, bloodshot eyes. Respondent admitted to drinking three  
7 or four cans of beer at her house around the corner from the accident. During the booking  
8 procedure Respondent submitted to a breath test that resulted in a breath-alcohol content level of  
9 0.25% on the first and second reading.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 11. Respondent is subject to disciplinary action under sections 4300 and 4301,  
13 subdivision (h), on the grounds of unprofessional conduct, in that Respondent used alcoholic  
14 beverage to an extent or in a manner dangerous or injurious to herself, another person, or the  
15 public, when she operated a vehicle while having 0.25% of alcohol in her blood. Complainant  
16 refers to and by this reference incorporates the allegations set forth above in paragraphs 10,  
17 subparagraph (b), as though set forth fully.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

20 12. Respondent is subject to disciplinary action under section 4301, (o), in that  
21 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing  
22 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above  
23 in paragraphs 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

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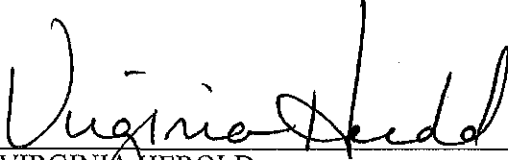
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 94938, issued to Valerie Chere Lea ;
2. Ordering Valerie Chere Lea to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/3/14

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

LA2013509898  
(Rev.3/18/14)