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

11 In the Matter of the Accusation Against:

Case No. 5009

12 **ELIZABETH ALEXIS LAMONT**
18839 E. Fundale St.
13 Azusa, CA 91702

A C C U S A T I O N

14 **Pharmacy Technician Registration**
No. TCH 123075

15 Respondent.
16

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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 (Board).

22 2. On or about May 4, 2012, the Board issued Pharmacy Technician Registration No.
23 TCH 123075 to Elizabeth Alexis Lamont (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein, and will expire on
25 December 31, 2015, unless renewed.

26 **JURISDICTION**

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

STATUTORY PROVISIONS

4. Section 490 states, in pertinent part:

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

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

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

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

6. 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."

7. Section 4301 states, in pertinent part:

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

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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 (k) The conviction of more than one misdemeanor or any felony involving the use,
9 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
10 combination of those substances.

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

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

5 **REGULATORY PROVISIONS**

6 8. California Code of Regulations, title 16, section 1770, states, in pertinent part:
7 "For the purpose of denial, suspension, or revocation of a personal or facility license
8 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
9 crime or act shall be considered substantially related to the qualifications, functions or duties of a
10 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
11 licensee or registrant to perform the functions authorized by his license or registration in a manner
12 consistent with the public health, safety, or welfare."

13 **COST RECOVERY**

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

18 **FIRST CAUSE FOR DISCIPLINE**

19 ***(Convictions of Substantially Related Crimes)***

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

24 a. On or about October 21, 2013, after pleading *nolo contendere*, Respondent was
25 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
26 [driving while having 0.08% or more, by weight, of alcohol in her blood] in the criminal
27 proceeding entitled *The People of the State of California v. Elizabeth Lamont* (Super. Ct. Los
28 Angeles County, 2013, No. 3PS02710). The Court sentenced Respondent to serve 96 hours

1 in Los Angeles County Jail and placed her on three years probation, with terms and conditions.

2 b. The circumstances surrounding the conviction are that on or about August 10, 2013,
3 the Pasadena Police initiated a traffic enforcement stop after observing Respondent driving the
4 wrong way on a one way street. When the officer approached the driver's door, he could smell the
5 odor of an alcoholic beverage emitting from inside the vehicle. When asked if she had been
6 drinking, Respondent stated, "Very little." While speaking to Respondent, the officer could smell
7 the odor of an alcoholic beverage coming from her breath and person. She was observed to have
8 bloodshot watery eyes. Respondent was asked to complete a standardized field sobriety test and
9 was observed to have signs of impairment and intoxication in each test she performed. During
10 the booking procedure, Respondent submitted to a blood test that resulted in a blood alcohol
11 content level of 0.11%.

12 c. On or about July 17, 2013, after pleading *nolo contendere*, Respondent was convicted
13 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving
14 under the influence of alcohol or drugs] in the criminal proceeding entitled *The People of the*
15 *State of California v. Elizabeth Lamont* (Super. Ct. San Bernardino County, 2013, No.
16 TWV1300944.) The Court sentenced Respondent to serve 30 days in San Bernardino County Jail
17 and ordered pronouncement of judgment withheld and conditional and revocable release granted
18 for a period of 36 months, with terms and conditions.

19 d. The circumstance surrounding the conviction are that on or about January 1, 2013, the
20 Ontario Police observed Respondent's vehicle parked in the middle of a parking lot. When the
21 officer flashed the patrol vehicle spotlight to illuminate the vehicle, he observed the driver's door
22 open and Respondent squatting with her pants down outside the vehicle. As the officer
23 approached the vehicle, Respondent quickly pulled her pants up and got into the driver's seat of
24 the vehicle. The officer noticed a wet puddle outside the driver's door. When asked what she was
25 doing, Respondent stated she was urinating so she could sober up. While speaking to Respondent,
26 the officer could smell a strong odor of an alcoholic beverage coming from her breath and person.
27 She was observed to have bloodshot watery eyes, droopy eyelids, and slurred speech. While at the
28 scene, Respondent submitted to a Preliminary Alcohol Screening test that resulted in a breath

1 alcohol level of 0.15% on the first and second reading. Respondent was subsequently arrested for
2 driving under the influence of alcohol.

3 **SECOND CAUSE FOR DISCIPLINE**

4 *(Convictions Involving the Consumption of Alcohol)*

5 11. Respondent is subject to disciplinary action under section 4301, subdivision (k), on
6 the grounds of unprofessional conduct, in that, Respondent was convicted of two (2) crimes
7 involving the consumption of alcohol. Complainant refers to and by this reference incorporates,
8 the allegations set forth above in paragraph 10, subparagraph (a) and (c), inclusive, as though set
9 forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 *(Dangerous Use of Alcohol)*

12 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
13 the grounds of unprofessional conduct, in that, on or about August 10, 2013, and January 1, 2013,
14 Respondent used alcohol to an extent or in a manner dangerous or injurious to herself or others
15 when she operated a vehicle while having a blood alcohol content level of 0.08% or higher.
16 Complainant refers to and by this reference incorporates, the allegations set forth above in
17 paragraph 10, subparagraph (b) and (d), inclusive, as though set forth fully.

18 **FOURTH CAUSE FOR DISCIPLINE**

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

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

24 **DISCIPLINE CONSIDERATIONS**

25 14. To determine the degree of discipline, if any, to be imposed on Respondent,
26 Complainant alleges, as follows:

27 a. On or about May 1, 2003, Respondent was convicted of one misdemeanor count of
28 violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by

1 weight, of alcohol in her blood] in the criminal proceeding entitled *The People of the State of*
2 *California v. Elizabeth Lamont* (Super. Ct. Los Angeles County, 2003, No. 3JM0084301). The
3 Court sentenced Respondent to serve 60 days in Los Angeles County Jail and placed her on three
4 years probation, with terms and conditions.

5 b. The circumstances surrounding the conviction are that on or about December 29,
6 2002, Respondent drove a vehicle while having 0.08% or more, by weight, of alcohol in her
7 blood.

8 c. On or about May 1, 2003, Respondent was convicted of one misdemeanor count of
9 violating Vehicle Code section 14601.5, subdivision (a) [driving when privilege suspended or
10 revoked] in the criminal proceeding entitled *The People of the State of California v. Elizabeth*
11 *Lamont* (Super. Ct. Los Angeles County, 2003, No. 3JM0156701). The Court placed Respondent
12 on three years probation, with terms and conditions.

13 d. The circumstances surrounding the conviction are that on or about March 5, 2003,
14 Respondent drove a vehicle while her driving privilege was suspended or revoked.

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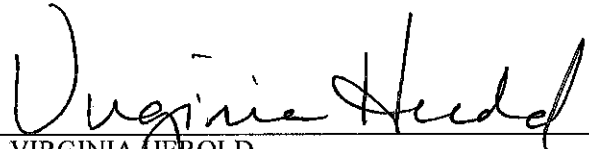
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PRAYER

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 123075, issued to Respondent;
2. Ordering Respondent 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: 5/30/14



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