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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. 5095

13 **MICHAEL VINCENT GLAZE**
6661 Charner Street
Bell Gardens, CA 90201

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **109941**

16 Respondent.

17 Complainant alleges: -

18 **PARTIES**

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

21 2. On or about July 13, 2011, the Board issued Pharmacy Technician Registration No.
22 TCH 109941 to Michael Vincent Glaze (Respondent). The Pharmacy Technician Registration
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 November 30, 2014, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides:

2 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and
3 Professions Code, Sec 4000 et esq.)] and the Uniform Controlled Substances Act (Division 10
4 commencing with Section 11000) of the Health and Safety Code)."

5 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or
6 revoke a license issued by the Board.

7 6. Section 4300.1 of the Code states, "the expiration, cancellation, forfeiture, or
8 suspension of a board-issued license by operation of law or by order or decision of the board or a
9 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
10 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
11 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
12 suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 7. Section 490 of the Code states, in pertinent part:

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

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

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

1 8. Section 493 of the Code states:

2 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or revoke a
4 license or otherwise take disciplinary action against a person who holds a license, upon the ground
5 that the applicant or the licensee has been convicted of a crime substantially related to the
6 qualifications, functions, and duties of the licensee in question, the record of conviction of the
7 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
8 and the board may inquire into the circumstances surrounding the commission of the crime in order
9 to fix the degree of discipline or to determine if the conviction is substantially related to the
10 qualifications, functions, and duties of the licensee in question."

11 As used in this section, "license" includes "certificate," "permit," "authority," and
12 "registration."

13 9. Section 4301 of the Code states, in pertinent part:

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

17

18 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
19 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
20 oneself, to a person holding a license under this chapter, or to any other person or to the public, or

21 to the extent that the use impairs the ability of the person to conduct with safety to the public the
22 practice authorized by the license.

23

24 "(j) The violation of any of the statutes of this state, or any other state, or of the United
25 States regulating controlled substances and dangerous drugs.

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

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

18

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

23 REGULATORY PROVISIONS

24 10. California Code of Regulations, title 16, section 1770, states:

25 "For the purpose of denial, suspension, or revocation of a personal or facility license
26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
27 crime or act shall be considered substantially related to the qualifications, functions or duties of a
28 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

CONTROLLED SUBSTANCE

12. "Marijuana," is a schedule I controlled substance as defined in Health and Safety Code section 11054, subdivision (d)(13) and is categorized a dangerous drug pursuant to section 4022 of the Code.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

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

a. On or about February 10, 2014, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People of the State of California v. Michael Glaze* (Super. Ct. L.A. County, 2014, No. 3DY07995.) The Court sentenced Respondent to serve 96 hours in Los Angeles County Jail and placed him on 48 months probation, with terms and conditions.

b. The circumstances surrounding the conviction are that on or about July 5, 2013, California Highway Patrol Officers initiated an enforcement stop after observing Respondent driving at a high rate of speed and weaving in and out of the carpool lane. While speaking to Respondent, the officer could smell the odor of an alcoholic beverage emitting from within the passenger compartment of the vehicle. When asked if he had been drinking, Respondent admitted

1 to drinking an alcoholic beverage and smoking marijuana prior to operating his vehicle.

2 Respondent was asked to perform a series of field sobriety tests which he was unable to complete
3 successfully. Respondent submitted to blood test that tested positive for marijuana and resulted in
4 a blood alcohol content of 0.16%.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Use of a Controlled Substance)**

7 14. Respondent is subject to disciplinary action under section 4301, subdivision (h) and (j)
8 of the Code, in that, Respondent by his own admission used Marijuana, a controlled substance.
9 Complainant refers to, and by reference incorporates, the allegations set forth above in paragraph
10 13, subparagraph (b), as though set forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Dangerous Use of Alcohol)**

13 15. Respondent is subject to disciplinary action under sections 4301, subdivision (h) of the
14 Code, on the grounds of unprofessional conduct, in that Respondent dangerously used alcoholic
15 beverages when he drove a vehicle while under the influence. Complainant refers to and by this
16 reference incorporates the allegations set forth above in paragraph 13, subparagraph (b), as though
17 set forth fully.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Conviction Involving Alcohol)**

20 16. Respondent is subject to disciplinary action under section 4301, subdivision (k) of the
21 Code, on the grounds of unprofessional conduct, in that Respondent sustained a criminal
22 conviction involving alcoholic beverages or drugs. Complainant refers to and by this reference
23 incorporates the allegations set forth above in paragraph 13, as though set forth fully.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Violation of Licensing Chapter)**

26 17. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
27 Code, in that Respondent violated provisions of the licensing chapter. Complainant refers to, and
28

1 by this reference incorporates, the allegations set forth above in paragraphs 13 through 16,
2 inclusive, as though set forth fully.

3 **DISCIPLINE CONSIDERATIONS**

4 18. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges, as follows:

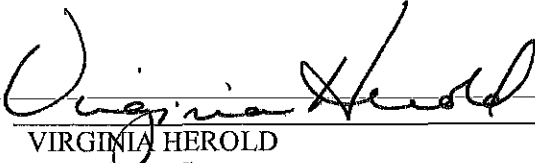
6 a. On or about January 24, 2008, Respondent was convicted of one misdemeanor count
7 of violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol or
8 drugs] in the criminal proceeding entitled *The People of the State of California v. Michael Glaze*
9 (Super. Ct. L.A. County, 2008, No. 7BF06155.) The Court placed Respondent on 36 months
10 probation, with terms and conditions.

11 **PRAAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician Registration NO. TCH 109941, issued
15 to Michael Vincent Glaze;
- 16 2. Ordering Michael Vincent Glaze to pay the Board the reasonable costs of the
17 investigation and enforcement of this case, pursuant to section 125.3 of the Code; and
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: 9/13/14


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

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