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8	BEFORE THE BOARD OF PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	In the Matter of the Accusation Against:	Case No. 5322
12	RACHEL MICHELLE CONOVER aka RACHEL GUZMAN	·
13	aka RACHEL SHEPARD 215 Union Ave. # 437	ACCUSATION
14	Campbell, CA 95005	
15	Pharmacy Technician License No. 105279	
16	Respondent.	
17	Complainant alleges:	
18	<u>PARTIES</u>	
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.	
21	2. On or about October 1, 2010, the Board of Pharmacy issued Pharmacy Technician	
22	License Number 105279 to Rachel Michelle Conover aka Rachel Guzman aka Rachel Shepard	
23	(Respondent). The Pharmacy Technician License was in full force and effect at all times relevan	
24	to the charges brought herein and will expire on June 30, 2016, unless renewed.	
25	JURISDICTION	
26	3. This Accusation is brought before the Board of Pharmacy (Board), Department of	
27	Consumer Affairs, under the authority of the following laws. All section references are to the	
28	Business and Professions Code (Code) unless otherwise indicated.	

- 4. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
- 5. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, 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.

STATUTORY AND REGULATORY PROVISIONS

- 6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:
- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.
- 7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of the license.
 - 8. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a 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 her license or registration in a manner consistent with the public health, safety, or welfare."

9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime(s))

- 10. Respondent is subject to discipline under section 4301(l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of substantially related crime(s), in that on or about April 15, 2014, in the criminal case *People v. Rachel Michelle Conover*, Case No. C1478097 in Santa Clara County Superior Court, Respondent was convicted of violating Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol of 0.08% or More), a misdemeanor. The conviction was entered as follows:
- a. On or about October 1, 2013, a car driven by Respondent was involved in a multi-vehicle accident in San Jose, California. Responding officer(s) from the San Jose Police Department detected the odor of alcohol on Respondent, and she admitted to consuming alcohol. A blood sample taken from Respondent subsequently reported a blood alcohol value of 0.15%. Respondent was placed under arrest for driving under the influence, and causing injury.
- b. On or about March 6, 2014, in *People v. Rachel Michelle Conover*, Case No. C1478097 in Santa Clara County Superior Court, Respondent was charged with violating (1) Vehicle Code section 23152, subdivision (a) (Driving Under the Influence of Alcohol), a misdemeanor, and (2) Vehicle Code section 23152, subdivision (b) (Driving With Blood Alcohol Level of 0.08% or Higher), a misdemeanor, with special allegations under each count of having a blood alcohol level of 0.15% or more within the meaning of Vehicle Code section 23578.
- c. On or about April 15, 2014, Respondent pleaded nolo contendere to count 2.

 Count 1 was dismissed pursuant to the plea. Imposition of sentence was suspended and Respondent was placed on court probation for three (3) years, on terms and conditions including 30 days in jail (1 day CTS), a 3-month First Offender Program, and payment of fines and fees.

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SECOND CAUSE FOR DISCIPLINE 1 (Dangerous or Injurious Use of Alcohol) 2 11. Respondent is subject to discipline under section 4301(h) of the Code, in that, as 3 described in paragraph 10 above, Respondent used alcohol in a dangerous or injurious manner. 4 5 THIRD CAUSE FOR DISCIPLINE 6 (Unprofessional Conduct) 7 12. Respondent is subject to discipline under section 4301 of the Code in that, as 8 9 described in paragraphs 10-11 above, Respondent engaged in unprofessional conduct. 10 <u>PRAYER</u> 11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 12 and that following the hearing, the Board of Pharmacy issue a decision: 13 1. Revoking or suspending Pharmacy Technician License Number 105279, issued to 14 Rachel Michelle Conover aka Rachel Guzman aka Rachel Shepard (Respondent); 15 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and 16 17 enforcement of this case, pursuant to Business and Professions Code section 125.3; 3. Taking such other and further action as is deemed necessary and proper. 18 19 20 DATED: 2/26/15 21 Executive Officer 22 Board of Pharmacy Department of Consumer Affairs 23 State of California Complainant 24 25 SF2014410097 41179754.doc 26 27

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