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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. 5499

13 **CHASIDY LYNN WILHITE**
1000 1st Street
Wasco, CA 93280

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 61048

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.

21 2. On or about February 24, 2005, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 61048 to Chasidy Lynn Wilhite (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on April 30, 2016, unless renewed.

25 **JURISDICTION**

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

STATUTORY PROVISIONS

1
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 492 states, in pertinent part:

18 "Notwithstanding any other provision of law, successful completion of any diversion
19 program under the Penal Code, or successful completion of an alcohol and drug problem
20 assessment program under Article 5 (commencing with Section 23249.50) of Chapter
21 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
22 (commencing with Section 500) of this code, or any initiative act referred to in that division, from
23 taking disciplinary action against a licensee or from denying a license for professional
24 misconduct, notwithstanding that evidence of that misconduct may be recorded in a record
25 pertaining to an arrest."

26 6. Section 493 states:

27 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
28 the department pursuant to law to deny an application for a license or to suspend or revoke a

1 license or otherwise take disciplinary action against a person who holds a license, upon the
2 ground that the applicant or the licensee has been convicted of a crime substantially related to the
3 qualifications, functions, and duties of the licensee in question, the record of conviction of the
4 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
5 and the board may inquire into the circumstances surrounding the commission of the crime in
6 order to fix the degree of discipline or to determine if the conviction is substantially related to the
7 qualifications, functions, and duties of the licensee in question. As used in this section, "license"
8 includes "certificate," "permit," "authority," and "registration."

9 7. Section 4060 provides in pertinent part, that no person shall possess any controlled
10 substance, except that furnished to a person upon the prescription of a physician, dentist,
11 podiatrist, optometrist, veterinarian, or other authorized prescriber.

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

14 9. Section 4300.1 states:

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

20 10. Section 4301 states, in pertinent part:

21 "The board shall take action against any holder of a license who is guilty of unprofessional
22 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

23 Unprofessional conduct shall include, but is not limited to, any of the following:

24

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

28

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

6

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

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
17 to 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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1 Respondent has been convicted of a crime substantially related to the qualifications, functions or
2 duties of a pharmacy technician, as follows:

3 a. On or about December 2, 2014, Respondent was convicted of one misdemeanor count
4 of violating Health and Safety Code section 11550, subdivision (a) [under the influence of a
5 controlled substance], one misdemeanor count of Health and Safety Code section 11364.1
6 [possession of a controlled substance paraphernalia], and one misdemeanor count of Health and
7 Safety Code section 11357, subdivision (b) [possession of not more than 28.5 grams of
8 Marijuana] in the criminal proceeding entitled *The People of the State of California v. Chasidy
9 Lynn Wilhite* (Super. Ct. Kern County, 2014, No. SM111907A). The court deferred
10 pronouncement of sentencing pending Respondent's completion of a drug diversion program. On
11 or about October 29, 2015, the case was called for return on bench warrant: failure to comply with
12 deferred entry of judgment program, Respondent failed to appear, and the court issued a bench
13 warrant in the amount of \$20,000.00. As of December 2, 2015, the bench warrant is still
14 outstanding. The circumstances surrounding the conviction are that on or about January 28, 2014,
15 during a stop for riding a bicycle with no lights during darkness, an officer observed Respondent
16 to have rapid speech and appeared extremely nervous. Respondent admitted that she had two
17 needles and a Marijuana joint in her pocket. Respondent further admitted that she used about one
18 gram of Methamphetamine intravenously the night before.

19 b. On or about July 3, 2014, Respondent was convicted of one misdemeanor count of
20 violating Vehicle Code section 20002, subdivision (a) [hit and run] in the criminal proceeding
21 entitled *The People of the State of California v. Chasidy Lynn Wilhite* (Super. Ct. Kern County,
22 2014, No. KM021845A). On or about October 27, 2015, the case called for sentencing,
23 Respondent failed to appear, and the court issued a bench warrant in the amount of \$10,000.00.
24 As of December 2, 2015, the bench warrant is still outstanding. The circumstances surrounding
25 the conviction are that on or about January 28, 2014, Respondent drove a vehicle that resulted in
26 an accident, with damages to property. She failed to immediately stop her vehicle and locate or
27 notify the owner or person in charge of that property or leave a note in a conspicuous place on the
28 vehicle or property.

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SECOND CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

16. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 15, subparagraph (b), as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Dangerous Use of a Controlled Substance)

17. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that Respondent used a controlled substance to the extent or in a manner as to be dangerous or injurious to herself, another person, or the public, Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 15, subparagraph (a), as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Illegally Obtained or Possessed a Controlled Substance)

18. Respondent is subject to disciplinary action under section 4301, subdivision (j), as defined in section 4060, in that Respondent illegally obtained or possessed a controlled substance. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 15, subparagraph (a), as though set forth fully.

FIFTH CAUSE FOR DISCIPLINE

(Violating Provisions of the Pharmacy Act)

19. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that Respondent violated provisions of the Pharmacy Act. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 15 through 18, as though set forth fully.

DISCIPLINARY CONSIDERATIONS

20. In order to determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about April 14, 2014, during the service of an arrest warrant for

1 Respondent at the address of 1501 Sycamore Dr., Respondent resisted arrest by attempting to shut
2 the door on the deputies and pull away from the deputies.

3 **PRAYER**

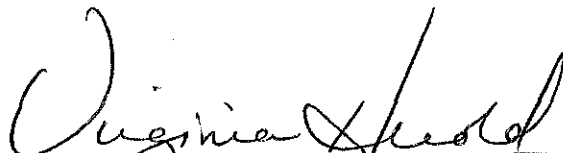
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 61048, issued to
7 Chasidy Lynn Wilhite;

8 2. Ordering Chasidy Lynn Wilhite to pay the Board of Pharmacy the reasonable costs of
9 the investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3; and

11 3. Taking such other and further action as deemed necessary and proper.

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13
14 DATED: 1/22/16


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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