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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. 5638

12 **DOUGLAS JEFFORY MOHAN**  
13 **2122 West Avenue M4**  
**Palmdale, CA 93551**

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

14 **Pharmacy Technician License**  
15 **No. TCH 126532**

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 September 20, 2012, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 126532 to Douglas Jeffery Mohan (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on September 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.

1 4. Section 4300(a) of the Code states "Every license issued may be suspended or  
2 revoked."

3 5. Section 4300.1 of the Code states:

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

### 8 STATUTORY PROVISIONS

9 6. Section 482 of the Code states:

10 Each board under the provisions of this code shall develop criteria to evaluate the  
11 rehabilitation of a person when:

- 12 (a) Considering the denial of a license by the board under Section 480; or
- 13 (b) Considering suspension or revocation of a license under Section 490.

14 Each board shall take into account all competent evidence of rehabilitation  
15 furnished by the applicant or licensee.

16 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
17 revoke a license on the ground that the licensee has been convicted of a crime substantially  
18 related to the qualifications, functions, or duties of the business or profession for which the  
19 license was issued.

20 8. Section 493 of the Code states:

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

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

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1 11. California Code of Regulations, title 16, section 1770, states:

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

#### 6 COSTS

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

#### 13 FIRST CAUSE FOR DISCIPLINE

14 (April 21, 2015 Criminal Conviction for DUI on February 1, 2015)

15 13. Respondent has subjected his registration to discipline under sections 490 and  
16 4301(1) of the Code in that he was convicted of a crime that is substantially related to the  
17 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

18 a. On April 21, 2015, in a criminal proceeding entitled *People of the State of*  
19 *California v. Douglas Jeffory Mohan*, in Los Angeles County Superior Court, case number  
20 5AV01184, Respondent was convicted on his plea of nolo contendere to violating Vehicle Code  
21 section 23152(b), driving with a blood alcohol concentration (BAC) of .08 or more, a  
22 misdemeanor. Respondent admitted, and the court found true the special allegation that  
23 Respondent's BAC was .15 percent or more within the meaning of Vehicle Code section 23578.  
24 Pursuant to a plea agreement, the court dismissed an additional count of violating Vehicle Code  
25 section 23152(a), driving under the influence, as well as the special allegation that Respondent  
26 refused to submit to a chemical test pursuant to Vehicle Code section 23577.

27 b. As a result of the conviction, Respondent was sentenced to serve two days in  
28 the Los Angeles County Jail, with pre-custody credit for two days, and he was granted summary

1 probation for three years. Respondent was ordered to perform 10 days of community labor,  
2 complete a nine-month licensed Alcohol and Other Drug Education and Counseling Program, a  
3 Hospital and Morgue Program, and a MADD Victim Impact Panel session, pay fines, fees and  
4 restitution to the victim, and comply with the DUI probation terms.

5 c. The facts that led to the conviction are that at approximately 11:00 p.m. on  
6 February 1, 2015, a road in Lancaster had been closed by the Los Angeles County Sheriff's  
7 Department while they investigated a severe traffic collision involving a possible fatality. Orange  
8 cones had been placed across the road for all westbound lanes near the vicinity of the traffic  
9 collision. A volunteer with a flashlight was assisting by directing traffic; his privately-owned  
10 vehicle was parked approximately 15 feet from the orange cones in a closed section of the road.  
11 Three electronic flares were magnetically attached to the volunteer's vehicle, and the hazard  
12 lights were flashing. A deputy at the scene described hearing a loud collision; he observed a  
13 large amount of smoke, and the volunteer's vehicle and a gray SUV were spinning. The deputy  
14 ran to the collision to check on the driver (Respondent). When the deputy made contact with  
15 Respondent, he smelled a strong odor of alcohol on Respondent's breath and body, his speech was  
16 extremely slurred and mumbled, his eyes were bloodshot and watery, and he swayed and  
17 staggered when he exited his vehicle. The volunteer stated as Respondent approached the orange  
18 cones at a high rate of speed, he attempted to get Respondent's attention with his flashlight.  
19 Respondent drove through the cone pattern without slowing down and collided with the  
20 volunteer's vehicle. Respondent submitted to a series of field sobriety tests which he was unable  
21 to complete as explained and demonstrated by the deputy. Because Respondent was unable to  
22 maintain his balance, the tests were discontinued for Respondent's safety. Respondent provided  
23 two breath samples that were analyzed by the preliminary alcohol screening device with a BAC  
24 of .269 and .274, respectively. Respondent was arrested for driving under the influence. During  
25 booking, Respondent refused to provide any further samples for testing.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 14. Respondent has subjected his registration to disciplinary action under section 4301(h)  
4 of the Code for unprofessional conduct in that on or about February 1, 2015, as described in  
5 paragraph 13, above, Respondent operated a motor vehicle while significantly impaired by  
6 alcohol, and caused a collision.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician License Number TCH 126532, issued  
11 to Douglas Jeffory Mohan;
- 12 2. Ordering Douglas Jeffory Mohan to pay the Board of Pharmacy the reasonable costs  
13 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
14 section 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: \_\_\_\_\_

3/19/16

*Virginia Herold*

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

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