

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5912

12 **JEFFREY MURALLES**
13 9958 Haines Canyon
Tujunga, CA 91042

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 83683

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about June 2, 2008, the Board issued Pharmacy Technician Registration No.
23 TCH 83683 to Jeffrey Muralles (Respondent). The Pharmacy Technician Registration was in full
24 force and effect at all times relevant to the charges brought herein and will expire on May 31,
25 2018, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following laws.

28 All section references are to the Business and Professions Code unless otherwise indicated.

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

16 **REGULATORY PROVISIONS**

17 8. California Code of Regulations, title 16, section 1770, states:

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

24 **COST RECOVERY**

25 9. Section 125.3 provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Substantially Related Crime)**

5 10. Respondent is subject to disciplinary action under section 4301, subdivision (I), in
6 conjunction with, California Code of Regulations, title 16, section 1770, on the grounds of
7 unprofessional conduct, in that the Respondent was convicted of a crime substantially related to
8 the qualifications, functions, and duties of a pharmacy technician, as follows:

9 a. On or about March 4, 2016, after pleading nolo contendere, Respondent was
10 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) and
11 23540 [driving while having 0.08% or more, by weight, of alcohol in his blood within 10 years of
12 another DUI offense], one misdemeanor count of violating Vehicle Code section 14601.2,
13 subdivision (a) [driving while driving privileges are suspended or revoked with knowledge], and
14 one misdemeanor count of violating Vehicle Code section 23247, subdivision (e) [driving a vehicle
15 not equipped with an ignition interlock device] in the criminal proceeding entitled *The People of*
16 *the State of California v. Jeffrey O'Brien Muralles* (Super. Ct. LA County, 2016, No.
17 5GN04464). The Court sentenced Respondent to serve 30 days in jail and placed him on 3 years
18 probation, with terms and conditions. Respondent was also ordered to complete an 18-month
19 licensed second offender alcohol program, complete the Hospital and Morgue Program, the Victim
20 Impact Program, and install an ignition interlock device.

21 b. The circumstances surrounding the conviction are that on or about October 3, 2015,
22 California Highway Patrol officers initiated a traffic enforcement stop and contacted Respondent.
23 While speaking to Respondent, the officer could smell the odor of alcohol emitting from the
24 vehicle and observed Respondent to have to have red watery eyes. When asked if he had
25 consumed any alcohol, Respondent admitted to drinking two glasses of Hennessey and Coke prior
26 to driving. Respondent submitted to a series of field sobriety tests which he was unable to
27 complete as demonstrated. A records check revealed that Respondent's license was suspended.

28 ///

1 During the booking procedure, Respondent submitted to a blood test that revealed a blood alcohol
2 content level of 0.16%.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Alcohol Related Convictions)**

5 11. Respondent is subject to disciplinary action under section 4301, subdivision (k), on the
6 grounds of unprofessional conduct, in that on or about March 4, 2016, Respondent sustained a
7 criminal conviction involving the consumption of alcohol. Complainant refers to, and by this
8 reference incorporates, the allegations set forth above in paragraph 10, as though fully set forth
9 herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 12. Respondent is subject to disciplinary action under sections 4301, subdivision (h), on
13 the grounds of unprofessional conduct, in that, on or about October 3, 2015, Respondent used
14 alcoholic beverages to an extent or in a manner dangerous or injurious to himself, any person, or
15 the public when he operated a vehicle after consuming alcohol. Complainant refers to, and by this
16 reference incorporates, the allegations set forth above in paragraph 10, as though fully set forth
17 herein.

18 **DISCIPLINE CONSIDERATIONS**

19 13. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant alleges, as follows;

21 a. On or about October 9, 2015, the Board issued Citation No. CI 2014 62604 to
22 Respondent in the amount of \$600.00, on the grounds of unprofessional conduct for violating
23 section 4301, subdivisions (h) and (l) when he was arrested on August 30, 2014 for driving under
24 the influence of alcohol and was subsequently convicted on April 7, 2015. That Citation is now
25 final and is incorporated by reference as if fully set forth.

26 b. The facts and circumstances underlying Citation and Fine No. CI 2008 38675 are that
27 on or about April 7, 2015, after pleading nolo contendere, Respondent was convicted of one
28 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having

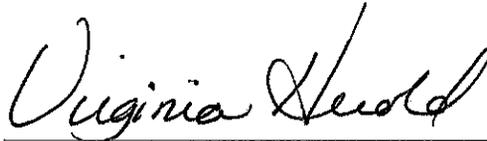
1 0.08% or more, by weight, of alcohol in his blood] in the criminal proceeding entitled *The People*
2 *of the State of California v. Jeffrey Obrien Muralles* (Super. Ct. L.A. County, 2015, No.
3 4PS03430). The Court ordered Respondent to enroll and complete a 3-month licensed first
4 offender alcohol program, and placed him on 3 years probation, with terms and conditions. The
5 circumstances surrounding the conviction are that on or about August 30, 2014, California
6 Highway Patrol officers initiated a traffic enforcement stop after observing Respondent drive at a
7 high rate of speed. While speaking to Respondent, the officer could smell the odor of alcohol
8 emitting from the vehicle. Respondent was observed to have red watery eyes, and his speech was
9 slurred. Respondent admitted to having a few drinks prior to driving. Respondent submitted to a
10 series of field sobriety tests which he was unable to complete as demonstrated. While at the scene,
11 Respondent submitted to a preliminary alcohol screening test that revealed a blood alcohol content
12 level of 0.15% on the first reading and 0.14% on the second reading.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration No. TCH 83683, issued to
17 Jeffrey Muralles;
- 18 2. Ordering Jeffrey Muralles to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3; and,
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: 11/3/16



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

25
26
27
28 LA2016602326
52261564.doc