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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. 6000

12 **ARMANDO JUAREZ**
476 N. Garfield Ave.
13 Oxnard, CA 93030

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 122457

15 Respondent.

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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, Department of Consumer Affairs (Board).

22 2. On or about October 16, 2012, the Board issued Pharmacy Technician License
23 No. TCH 122457 to Armando Juarez (Respondent). The Pharmacy Technician Registration was
24 in full force and effect at all times relevant to the charges brought herein and will expire on July 31,
25 2018, unless renewed.

26 **JURISDICTION**

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

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.

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7 “(k) The conviction of more than one misdemeanor or any felony involving the use,
8 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
9 combination of those substances.

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. The
16 board may inquire into the circumstances surrounding the commission of the crime, in order to fix
17 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 a
20 conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of
21 this provision. The board may take action when the time for appeal has elapsed, or the judgment of
22 conviction has been affirmed on appeal or when an order granting probation is made suspending
23 the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
24 Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
25 setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. . . .”

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1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1770, states:

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

9 **COST RECOVERY**

10 10. Section 125.3 provides that the Board may request the administrative law judge to
11 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
12 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Convictions of Substantially Related Crimes)**

15 11. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
16 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
17 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
18 related to the qualifications, functions or duties of a registered pharmacy technician, as follows:

19 a. On or about August 3, 2016, after pleading nolo contendere and admitting to
20 sustaining a prior DUI on or about August 18, 2016, Case No. 2006027256MA, Respondent was
21 convicted of two misdemeanor counts, violations of Vehicle Code sections 23152(a) [drive while
22 under the influence of alcohol] and 23152(b) [drive while under the influence of a greater than or
23 equal to 0.08 BAC] with a finding of true to the special allegation enhancement of violating
24 Vehicle Code section 23578 [drive with a greater than 0.15% BAC] in the criminal proceeding
25 entitled *The People of the State of California v. Armando Juarez, Jr.* (Super. Ct. Ventura County,
26 2016, No. 2016014243MA). The Court sentenced Respondent to 30 days in jail, placed him on
27 five years formal probation, and ordered him to complete the Multiple-Offender Driving Under the
28 Influence Program.

1 b. The circumstances underlying the conviction are that on or about April 10, 2016,
2 admittedly, after a long day of drinking vodka, and then, while under the tested influence of
3 a 0.26/0.24% BAC, Respondent drove a vehicle failing to stop at a stop sign and was pulled over
4 by law enforcement officers.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Convictions of Crimes Involving Alcohol)**

7 12. Respondent is subject to disciplinary action under sections 4300, and 4301,
8 subdivision (k), on the grounds of unprofessional conduct, in that on or about on or about
9 August 3, 2016, Respondent was convicted of two or more violations involving the use,
10 consumption, or self-administration of alcoholic beverages. Complainant refers to and by this
11 reference incorporates the allegations set forth above in paragraph 11, inclusive, as though set
12 forth fully.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Dangerous Use of Alcohol)**

15 13. Respondent is subject to disciplinary action under sections 4300, and 4301,
16 subdivision (h), on the grounds of unprofessional conduct, in that on or about April 10, 2016,
17 Respondent administered to himself alcoholic beverages to the extent or in a manner as to be
18 dangerous or injurious to himself, or others. Complainant refers to and by this reference
19 incorporates the allegations set forth above in paragraph 11, inclusive, as though set forth fully.

20 **DISCIPLINE CONSIDERATIONS**

21 14. To determine the degree of discipline, Complainant alleges that:

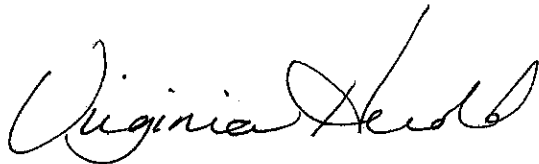
22 a. On or about August 18, 2006, after pleading guilty, Respondent was convicted of one
23 misdemeanor count of violating Vehicle Code section 23152(b) [drive with an equal to or greater
24 than 0.08% blood alcohol content (BAC)] in the criminal proceeding entitled *The People of the*
25 *State of California v. Armando Juarez Jr.* (Super. Ct. Ventura County, 2006,
26 No. 2006027256MA). The Court sentenced Respondent to five days in jail, placed him on 36
27 months formal probation, and ordered him to complete the First-Offender Drinking Driver
28 Program. The circumstances surrounding the conviction occurred on or about July 18, 2006.

PRAYER

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

1. Revoking or suspending Pharmacy Technician License No. TCH 122457, issued to Armando Juarez;
2. Ordering Armando Juarez to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 2/15/17



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

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