

1 XAVIER BECERRA  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 LORRIE M. YOST  
Deputy Attorney General  
4 State Bar No. 119088  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-2271  
Facsimile: (916) 327-8643  
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. 6014

12 **LYDIA ANN CASAREZ**  
13 **3934 Arden Dr. N.**  
**Fresno, CA 93703**

**ACCUSATION**

14 **Pharmacy Technician Registration No.**  
15 **TCH 93912**

16 Respondent.

17  
18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about May 4, 2010, the Board issued Pharmacy Technician Registration  
23 Number TCH 93912 to Lydia Ann Casarez ("Respondent"). The license was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on November 30, 2017,  
25 unless renewed.

26 **JURISDICTION**

27 3. Business and Professions Code ("Code") section 4300 provides, in pertinent part, that  
28 every license issued by the Board is subject to discipline, including suspension or revocation.

1 4. Code section 4300.1 states:

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

8 **STATUTORY PROVISIONS**

9 5. Code section 4301 states, in pertinent part:

10 The board shall take action against any holder of a license who is guilty of  
11 unprofessional conduct or whose license has been issued by mistake. Unprofessional  
12 conduct shall include, but is not limited to, any of the following:

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

18 (k) The conviction of more than one misdemeanor or any felony involving the  
19 use, consumption, or self administration of any dangerous drug or alcoholic beverage,  
20 or any combination of those substances.

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

**COST RECOVERY**

6. Code section 125.3 provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Crime)**

5 7. Respondent is subject to discipline pursuant to Code section 4301(l), on the grounds  
6 of unprofessional conduct, in that on or about September 27, 2016, in the case of *People v. Lydia*  
7 *Ann Casarez*, (Super. Ct. Fresno County, 2016, Case No. M16926472), Respondent was  
8 convicted by the Court on her plea of nolo contendere of violating Vehicle Code section 23152(b)  
9 (driving with a blood alcohol level of .08% or higher), a misdemeanor, with a prior conviction of  
10 the same on June 3, 2013, as set forth below in paragraph 10, and an enhancement of Vehicle  
11 Code section 23578 (having a blood alcohol level of .15% or higher). The circumstances of the  
12 crime were that on or about July 2, 2016, Respondent drove a vehicle while having a blood  
13 alcohol level of 0.19% and was swerving in her lane, crossing the fog line and onto the shoulder.  
14 The crime is substantially related to the qualifications, functions, or duties of a pharmacy  
15 technician.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Dangerous Use of Alcohol)**

18 8. Respondent is subject to discipline pursuant to Code section 4301(h), on the grounds  
19 of unprofessional conduct, in that Respondent consumed alcohol to the extent or in a manner as to  
20 be dangerous or injurious to oneself and to the public, in that on or about July 2, 2016,  
21 Respondent drove a vehicle with a blood alcohol level of .19%, as more particularly set forth  
22 above in paragraph 7.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Convictions Involving the Use of Alcohol)**

25 9. Respondent is subject to discipline pursuant to Code section 4301(k), on the grounds  
26 of unprofessional conduct, in that Respondent has been convicted of more than one misdemeanor  
27 involving the use, consumption, and self administration of alcoholic, as more particularly set forth  
28 above in paragraph 7 and below in paragraph 10.

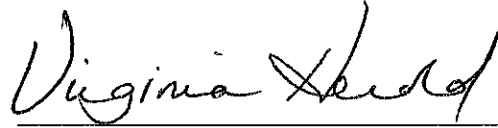


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3. Taking such other and further action as deemed necessary and proper.

DATED:

5/11/17



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

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