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7  
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. 6164

12 **DEANNA DUYEN NGUYEN**  
13 **3716 Anza Way**  
**San Leandro, CA 94578**

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

14 **Pharmacy Technician Registration**  
15 **No. TCH 106391**

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 (Board), Department of Consumer Affairs.

21 2. On or about September 1, 2010, the Board issued Pharmacy Technician Registration  
22 Number TCH 106391 to Deanna Duyen Nguyen (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on April 30, 2018, unless renewed.

25 **JURISDICTION**

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

1       4.     Section **4011** of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4       5.     Section **4300** of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6       6.     Section **4300.1** of the Code provides that the expiration, cancellation, forfeiture, or  
7 suspension of a Board-issued license, the placement of a license on a retired status, or the  
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to  
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
10 licensee or to render a decision suspending or revoking the license.

11                   **STATUTORY AND REGULATORY PROVISIONS**

12       7.     Section **4301** of the Code provides, in pertinent part, that the Board shall take action  
13 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but  
14 not be limited to, any of the following:

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

19                   ...

20               (i) The conviction of a crime substantially related to the qualifications,  
21 functions, and duties of a licensee under this chapter. The record of conviction of a  
22 violation of Chapter 13 (commencing with Section 801 ) of Title 21 of the United  
23 States Code regulating controlled substances or of a violation of the statutes of this  
24 state regulating controlled substances or dangerous drugs shall be conclusive  
25 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
26 be conclusive evidence only of the fact that the conviction occurred. The board may  
27 inquire into the circumstances surrounding the commission of the crime, in order to  
28 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.

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

2                     For the purpose of denial, suspension, or revocation of a personal or  
3                     facility license pursuant to Division 1.5 (commencing with Section 475) of the  
4                     Business and Professions Code, a crime or act shall be considered substantially  
5                     related to the qualifications, functions or duties of a licensee or registrant if to a  
6                     substantial degree it evidences present or potential unfitness of a licensee or registrant  
7                     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           9.     Section 125.3 of the Code provides, in pertinent part, that a Board may request the  
11           administrative law judge to direct a licensee found to have committed a violation or violations of  
12           the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
13           enforcement of the case.

14                                     **FIRST CAUSE FOR DISCIPLINE**

15                                     (Criminal Conviction)

16           10.     Respondent is subject to disciplinary action under Code section 4301, subdivision  
17           (l), in that she was convicted of a crime substantially related to the qualifications, functions, and  
18           duties of a registered pharmacy technician. The circumstances are as follows:

19           11.     On or about March 22, 2017, in San Luis Obispo Superior Court case number  
20           16M-09387, Respondent was convicted of having violated California Vehicle Code section  
21           23152(b) (driving with an excessive blood alcohol level). Respondent admitted the truth of an  
22           enhancement alleging that her blood alcohol at the time of the offense exceeded .15 percent. The  
23           conviction was based on an incident that occurred on or about August 13, 2016, during which  
24           Respondent drove a vehicle while intoxicated and rear-ended another vehicle. Respondent's  
25           blood alcohol level at the time of the offense was .23 percent.

26                                     **SECOND CAUSE FOR DISCIPLINE**

27                                     (Dangerous, Injurious, or Unsafe Use of Alcohol)

28           12.     Respondent is subject to disciplinary action under Code section 4301, subdivision (h),  
in that she used alcohol in a manner dangerous or injurious to herself or others, and/or to the  
extent that her use impaired her ability to safely practice as a registered pharmacy technician, as  
described in paragraph 10, above, and herein incorporated.

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

10/10/17

Virginia Sewell

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