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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. 6266

12 **SCARLET J. BARRERA**  
13 3595 Santa Fe Avenue, #296  
Long Beach, CA 90810

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

14 Pharmacy Technician Registration No. TCH 43352

15 Respondent.

16  
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, Department of Consumer Affairs (Board).

22 2. On or about October 18, 2002, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 43352 to Scarlet J. Barrera (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on August 31, 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           “The board shall take action against any holder of a license who is guilty of unprofessional  
2 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
3 not limited to, any of the following:

4           .....

5           “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
6 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
7 whether the act is a felony or misdemeanor or not.

8           .....

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

14           .....

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

18           “(l) The conviction of a crime substantially related to the qualifications, functions, and  
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
21 substances or of a violation of the statutes of this state regulating controlled substances or  
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The  
24 board may inquire into the circumstances surrounding the commission of the crime, in order to fix  
25 the degree of discipline or, in the case of a conviction not involving controlled substances or  
26 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a  
28 conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of

1 this provision. The board may take action when the time for appeal has elapsed, or the judgment of  
2 conviction has been affirmed on appeal or when an order granting probation is made suspending  
3 the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal  
4 Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or  
5 setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. . . .”

6 **REGULATORY PROVISION**

7 10. California Code of Regulations, title 16, section 1770, states:

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

14 **COST RECOVERY**

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

18 **FIRST CAUSE FOR DISCIPLINE**

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

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

24 a. On or about May 15, 2003, after pleading nolo contendere, Respondent was convicted  
25 of one misdemeanor count of violating Vehicle Code section 23152(b) [drive with an equal to or  
26 greater than 0.08% blood alcohol content (BAC), to wit, 0.19% BAC] in the criminal proceeding  
27 entitled *The People of the State of California v. Scarlet Juniet Barrera* (Super. Ct. L.A. County,  
28 2003, No. 3LL00636). The Court placed Respondent on 36 months of probation, ordered the to

1 complete a Three-Month First Offender Alcohol Program, and ordered her to complete 13 days of  
2 community service. On or about May 18, 2016, the Court dismissed the matter pursuant to Penal  
3 Code section 1203.4. The circumstances underlying the conviction occurred on or about May 1,  
4 2003, when Respondent drove a vehicle while under the influence of alcohol.

5 b. On or about February 19, 2004, after pleading nolo contendere, Respondent was  
6 convicted of one misdemeanor count of violating Penal Code section 647(f) [disorderly conduct;  
7 under influence of alcohol/drugs] in the criminal proceeding entitled *The People of the State of*  
8 *California v. Scarlet Juniet Barrera* (Super. Ct. L.A. County, 2004, No. D277363). The Court  
9 sentenced Respondent to one day in jail, and placed her on one year of probation. On or about  
10 May 18, 2016, the Court dismissed the matter pursuant to Penal Code section 1203.4. The  
11 circumstances underlying the conviction occurred on or about February 8, 2004, when Respondent  
12 was arrested for disorderly conduct while under the influence.

13 c. On or about October 23, 2007, after pleading guilty, Respondent was convicted of one  
14 misdemeanor count of violating Vehicle Code section 20002(a) [hit and run; property damage] in  
15 the criminal proceeding entitled *The People of the State of California v. Scarlet Juniet Barrera*  
16 (Super. Ct. Riverside County, 2007, No. RIM498951). The Court sentenced Respondent to 12  
17 days in jail, and placed her on 36 months of probation. On or about October 21, 2016, the Court  
18 dismissed the matter pursuant to Penal Code section 1203.4. The circumstances underlying the  
19 conviction occurred on or about March 9, 2007, when Respondent drove a vehicle, was involved  
20 in a vehicle collision, and left the scene without stopping.

21 d. On or about June 14, 2010, after pleading nolo contendere and admitting to having a  
22 prior DUI conviction, Respondent was convicted of one misdemeanor count of violating Vehicle  
23 Code section 23152(a) [drive while under the influence of alcohol/drugs] in the criminal  
24 proceeding entitled *The People of the State of California v. Scarlet Juniet Barrera* (Super. Ct.  
25 L.A. County, 2010, No. 9LT05864). The Court sentenced Respondent to 96 hours in jail, placed  
26 her on four years of probation, and ordered the to complete an 18-Month Second Offender  
27 Alcohol Program. On or about May 18, 2016, the Court dismissed the matter pursuant to Penal  
28 Code section 1203.4. The circumstances underlying the conviction occurred on or about

1 November 26, 2009, when Respondent drove a vehicle while under the influence of alcohol/drugs.

2 e. On or about April 18, 2017, after pleading nolo contendere, Respondent was  
3 convicted of two misdemeanor counts, Count 1, violating Vehicle Code section 23152(a) [drive  
4 while under the influence of alcohol], and Count 2, violating Penal Code section 148(a)(1)  
5 [willfully resists, delays, obstructs any public officer] in the criminal proceeding entitled *The*  
6 *People of the State of California v. Scarlet Barrera* (Super. Ct. L.A. County, 2017,  
7 No. 7LB09782). The Court sentenced Respondent to 48 hours in jail, placed her on 60 months of  
8 probation, ordered the to complete an 18-Month Second Offender Alcohol Program, ordered her  
9 to complete the Mothers Against Drunk Driving, Victim Impact Panel (MADD-VIP), ordered her  
10 to complete 26 weeks of Anger Management classes, and ordered her to complete 15 days of  
11 CalTrans duty. The circumstances underlying the conviction are that on or about November 9,  
12 2016, while under the influence of alcohol, Respondent drove a vehicle that collided with three  
13 parked vehicles before stopping. Respondent tried to flee the scene of the accident. Respondent  
14 was observed to emit the strong odor of alcohol from her breath and person, have bloodshot and  
15 watery eyes, and appeared to have an unsteady gait. Respondent refused to obey officer's orders  
16 and submit to chemical tests, was argumentative, and kicked the officer.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Multiple Convictions)**

19 13. Respondent is subject to disciplinary action under sections 4300, and 4301,  
20 subdivision (k), on the grounds of unprofessional conduct, in that Respondent was convicted of  
21 two or more misdemeanors involving the use, consumption, or self-administration of alcoholic  
22 beverages, on or about May 15, 2003, February 19, 2004, June 14, 2010 and April 18, 2017.  
23 Complainant refers to and by this reference incorporates the allegations set forth above in  
24 paragraph 11, subparagraphs a, b, d and e, inclusive, as though set forth fully.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Dangerous Use of Alcohol)**

27 14. Respondent is subject to disciplinary action under sections 4300, and 4301,  
28 subdivision (h), on the grounds of unprofessional conduct, in that on or about May 1, 2003,

1 February 8, 2004, November 26, 2009, and November 9, 2016, Respondent administered to  
2 herself alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself,  
3 or others. Complainant refers to and by this reference incorporates the allegations set forth above  
4 in paragraph 11, subparagraphs a, b, d and e, inclusive, as though set forth fully.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

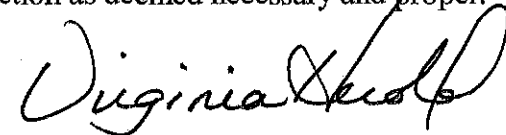
7 15. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision  
8 (f), on the grounds of unprofessional conduct, in that on and about on or about November 9, 2016,  
9 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.  
10 Complainant refers to and by this reference incorporates the allegations set forth above in  
11 paragraph 11, subparagraph e, inclusive, as though set forth fully.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 43352,  
16 issued to Scarlet J. Barrera;
- 17 2. Ordering Scarlet J. Barrera to pay the Board the reasonable costs of the investigation  
18 and enforcement of this case, pursuant to section 125.3; and,
- 19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: 7/6/18



22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant

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