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

12 In the Matter of the Accusation Against:
13 **ELIZABETH A. NEUBACHER**
14 **10862 Atherstone**
Rancho Cordova, CA 95670
15 **Pharmacy Technician Registration No. TCH**
36971
16 Respondent.

Case No. 6572

17 **FIRST AMENDED**
18 **ACCUSATION**

19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.
- 22 2. On or about March 23, 2001, the Board issued Pharmacy Technician Registration
23 Number TCH 36971 to Elizabeth A. Neubacher ("Respondent"). The pharmacy technician
24 registration was in full force and effect at all times relevant to the charges brought in the
25 Accusation and will expire on March 31, 2019, unless renewed.

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1 **JURISDICTION**

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

5 4. Code section 4300 states, in pertinent part:

6 (a) Every license issued may be suspended or revoked.

7 (b) The board shall discipline the holder of any license issued by the
8 board, whose default has been entered or whose case has been heard by the board and
found guilty, by any of the following methods:

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

11 (3) Suspending his or her right to practice for a period not exceeding one
12 year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the
board in its discretion may deem proper . . .

15 5. Code section 4300.1 states:

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

20 **STATUTORY PROVISIONS**

21 6. Code section 4301 states, in pertinent part:

22 The board shall take action against any holder of a license who is guilty
23 of unprofessional conduct or whose license has been procured by fraud or
24 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
not limited to, any of the following:

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26 (h) The administering to oneself, of any controlled substance, or the use
27 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
28 dangerous or injurious to oneself, to a person holding a license under this chapter, or
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.

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(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs . . .

.....
(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . .

7. Health and Safety Code section 11550, subdivision (a), states:

A person shall not use, or be under the influence of any controlled substance that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when administered by or under the direction of a person licensed by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of the defense to show that it comes within the exception. A person convicted of violating this subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not more than one year in a county jail. The court may also place a person convicted under this subdivision on probation for a period not to exceed five years.

8. Vehicle Code section 23152, subdivision (f), states that “[i]t is unlawful for a person who is under the influence of any drug to drive a vehicle.”

COST RECOVERY

9. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUG CLASSIFICATIONS

10. Methamphetamine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(2), and a dangerous drug pursuant to section 4022.

11. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code section 11054, subdivision (d)(13), and a dangerous drug pursuant to section 4022.

1 12. "GHB" or gamma hydroxybutyric acid is a Schedule III controlled substance
2 pursuant to Health and Safety Code section 11056, subdivision (c)(11), and a dangerous drug
3 pursuant to section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Self-Administration of Controlled Substances/Use of Dangerous Drugs to an**
6 **Extent or in a Manner Dangerous or Injurious to Oneself, Others and the Public)**

7 13. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
8 Code section 4301, subdivision (h), in that Respondent self-administered the controlled
9 substances methamphetamine, marijuana, and GHB and used the controlled substances/dangerous
10 drugs to an extent or in a manner dangerous or injurious to herself, others, and the public, as
11 follows: On or about August 3, 2017, Rancho Cordova Police Department officers were called to
12 check the welfare of a female who was passed out beyond the wheel of a vehicle. Upon arrival,
13 the vehicle was in drive, the ignition was on, and the vehicle was parked at a hotel, public off
14 street parking lot. The female driver was unresponsive. Fire Department personnel arrived and
15 managed to wake up the suspect, later determined to be Respondent. Respondent admitted to the
16 officers that she smoked methamphetamine (2 to 3 hits) out of a pipe at 0100 hours, drank 2.5 ml
17 of GHB and smoked marijuana (1 to 2 hits) from a pipe at 0200 hours, then left her residence at
18 0300 hours for her parent's residence in Elk Grove. Respondent was transported to the hospital.
19 Upon the officers' arrival at the hospital, they interviewed Respondent. Respondent admitted
20 driving her vehicle, but did not recall parking in the parking lot. Respondent showed signs and
21 symptoms of drug impairment; her eyes were red and watery, her balance was unsteady, her
22 speech was rapid, and her movements were extremely fidgety. Respondent was placed under
23 arrest for driving under the influence of a drug, in violation of Vehicle Code section 23152,
24 subdivision (f), and being under the influence of a controlled substance, in violation of Health and
25 Safety Code section 11550, subdivision (a). Respondent submitted a blood sample for testing.
26 Respondent's blood sample tested positive for methamphetamine and amphetamine.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Conviction of Substantially Related Crime)**

3 14. Respondent is subject to disciplinary action pursuant to Code section 4301,
4 subdivision (I), for unprofessional conduct, in that Respondent was convicted of a crime which is
5 substantially related to the qualifications, functions, and duties of a pharmacy technician. The
6 facts and circumstances are as follows:

7 a. On or about December 7, 2018, in the case of *People v. Elizabeth Anne Neubacher*
8 (Sacramento Superior Court Case No. 17MI022216), Respondent was convicted by the Court on
9 her plea of no contest of violating Vehicle Code section 23152(f) (driving a vehicle while under
10 the influence of a drug), a misdemeanor. The circumstances of the crime are more fully set forth
11 above in paragraph 13.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Violations of State Laws Regulating Controlled Substances)**

14 15. Respondent is subject to disciplinary action pursuant to Code section 4301,
15 subdivision (j), for unprofessional conduct, in that Respondent violated state laws regulating
16 controlled substances and dangerous drugs, specifically, Health and Safety Code section 11550,
17 subdivision (a), and Vehicle Code section 23152, subdivision (f), as set forth in paragraphs 13
18 and 14 above.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 36971,
23 issued to Elizabeth A. Neubacher;

24 2. Ordering Elizabeth A. Neubacher to pay the Board of Pharmacy the reasonable costs
25 of the investigation and enforcement of this case, pursuant to Business and Professions Code
26 section 125.3; and,

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

DATED: 12/27/18 Virginia Herold

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

SA2018103035

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A C C U S A T I O N

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Respondent.

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10 section 125.3; and,

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

12
13 DATED: _____

11/7/18



14 VIRGINIA HEROLD
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant

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