

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended Accusation
Against:

GUSTAVO ADOLFO LIZARAZO
8995 Jana Street
Spring Valley, CA 91977

Pharmacist License No. RPH 59384

Respondent.

Case No. 3367

OAH No. 2009110737

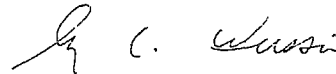
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted
by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on March 28, 2011.

It is so ORDERED February 25, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

RECEIVED BY CALIF.
BOARD OF PHARMACY
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PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge ("ALJ"), Office of Administrative Hearings, at San Diego, California on November 22, 2010.

Deputy Attorney General Ron Espinoza represented complainant.

Gustavo A. Lizarazo (respondent) appeared personally, and was represented by John F. Kirsch, Esq.

Oral and documentary evidence was received and the record remained open so the parties could submit written arguments addressing the reasonableness of the costs associated with prosecuting this action. The written arguments were received and the matter was deemed submitted on December 14, 2010.

FACTUAL FINDINGS

1. The First Amended Accusation was filed by Virginia Herold, while acting in her official capacity as the Executive Officer, Board of Pharmacy (the board), Department of Consumer Affairs, State of California.

2 On March 12, 2007, the board issued Pharmacist License Number RPH 59384 to respondent. That license was, and currently is, in full force and effect, with a current expiration date of September 30, 2012.

Respondent's History of Alcohol Abuse

3. On March 18, 2007, respondent was in a public place in San Diego, California under the influence of alcohol. Respondent's condition rendered him unable to exercise care for his own safety and/or the safety of others.

4. On April 22, 2007, respondent was in a public place in Monterey, California under the influence of alcohol. Respondent's condition rendered him unable to exercise care for his own safety and/or the safety of others.

5. On May 14, 2008, in Monterey County Superior Court, in case number CRMS258751A, respondent was convicted on a plea of nolo contendere of one count of violating California Vehicle Code section 23103, pursuant to Vehicle Code section 23103.5 (alcohol-related reckless driving), a misdemeanor which is substantially related to the qualifications, functions and duties of a licentiate. The facts leading to respondent's conviction are as follows: On May 31, 2007, respondent drove a vehicle upon a highway in willful or wanton disregard for the safety of persons or property, after consuming alcohol, in violation of Vehicle Code section 23103. On May 14, 2008, as a result of this conviction respondent was placed on three years of summary probation under certain terms and condition, including enrolling in a "12 Hour Wet Reckless Program" and a prohibition against driving with any alcohol or drugs in his system.

6. On June 5, 2010, respondent was in a public place in San Diego, California under the influence of alcohol. Respondent's condition rendered him unable to exercise care for his own safety and/or the safety of others.

7. On June 10, 2010, in Chula Vista, California, respondent was arrested for unlawfully driving a motor vehicle while under the influence of an alcoholic beverage in violation of Vehicle Code section 23152, subdivision (a).

8. At the time of the instant hearing respondent's criminal case relating to the June 10, 2010, arrest was pending in San Diego County.

9. Respondent testified during the hearing and offered various explanations for his alcohol related arrests and conviction. However, in spite of his protestations about over zealous police officers and numerous misunderstandings related to his conduct during the occasions referenced in Findings three through seven, it became evident that respondent has an alcohol abuse problem: he is an alcoholic.

10. On September 29, 2010, respondent successfully completed the Pacific Hills Treatment Center Residential Treatment Program, a 30-day substance abuse program. Respondent testified that he continues to attend Alcoholics Anonymous (AA) meetings one time per week and he is on the third step of the 12-Step AA program; however, respondent does not have a sponsor and seemed unsure of his sobriety date.

11. Respondent has been licensed as a Pharmacist in Nevada since 2003, and he testified that he has never been the subject of professional discipline in that state.

12. In addition to his testimony, respondent presented three reference letters that were written on his behalf for the purpose of securing a Clinical Manager position in the pharmacy at Scripps Mercy Hospital in Chula Vista, California. There is no indication in the letters that the authors were aware of respondent's alcohol abuse problem or of the disciplinary proceedings against respondent's license. Consequently, they were of little value in addressing respondent's current state of sobriety and his success, or lack thereof, in rehabilitation.

13. The reasonable costs of investigation and enforcement of this administrative matter against respondent total \$10,324.00. Respondent argued that the costs are not reasonable given the fact this was a "paper case" and did not require extensive preparation. Respondent's argument was unpersuasive. The original Accusation in this matter was filed on October 5, 2009, over one year prior to the hearing date. Then, as a result of respondent's June 10, 2010 arrest for driving under the influence of alcohol, it was necessary for complainant to file the First Amended Accusation. Three witnesses appeared at the hearing and testified concerning respondent's alcohol related incidents. Given the history of the proceedings against respondent \$10,324.00 is on the low-side of the costs for investigation and enforcement of such administrative matters and is eminently reasonable.

LEGAL CONCLUSIONS

1. Cause exists for discipline of respondent's license because, as set forth in Finding 5, respondent's conviction for an alcohol related crime, which is substantially related to the qualifications, functions, and duties of a licensee, constitutes a violation of Business and Professions Code sections 490, and 4301, subdivision (1).

2. Cause exists for discipline of respondent's license because his conduct, as set forth in Finding 3, reveals that respondent violated Business and Professions

Code section 4301, subdivision (h) by consuming alcoholic beverages to the extent and in a manner as to be dangerous or injurious to himself and to the public.

3. Cause exists for discipline of respondent's license because his conduct, as set forth in Finding 4, reveals that respondent violated Business and Professions Code section 4301, subdivision (h) by consuming alcoholic beverages to the extent and in a manner as to be dangerous or injurious to himself and to the public.

4. Cause exists for discipline of respondent's license because his conduct, as set forth in Finding 5, reveals that respondent violated Business and Professions Code section 4301, subdivision (h) by consuming alcoholic beverages to the extent and in a manner as to be dangerous or injurious to himself and to the public.

5. Cause exists for discipline of respondent's license because his conduct, as set forth in Finding 6, reveals that respondent violated Business and Professions Code section 4301, subdivision (h) by consuming alcoholic beverages to the extent and in a manner as to be dangerous or injurious to himself and to the public.

6. Cause exists for discipline of respondent's license because his conduct, as set forth in Finding 7, reveals that respondent violated Business and Professions Code section 4301, subdivision (h) by consuming alcoholic beverages to the extent and in a manner as to be dangerous or injurious to himself and to the public.

7. Respondent's attempt to provide evidence of rehabilitation failed. It appears that he still does not appreciate the severity of his alcoholism. Additionally, this case has the following factors in aggravation: respondent's alcohol related conduct spans a three year period of time (2007-2010); respondent was on probation as a result of his 2008 conviction and had an Accusation pending against his license at the time of his 2010 arrest; and, his last arrest was very recent (in fact, respondent had not yet gone to trial in the 2010 criminal matter at the time of the instant hearing). All factors considered, respondent is not an appropriate candidate for a grant of probation and it would be against the public interests to allow him to remain licensed.

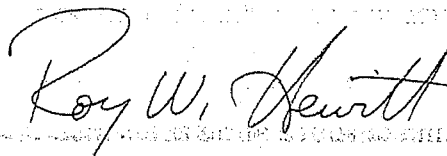
8. As set forth in Finding 13, the reasonable costs of investigating and enforcing this action against respondent, recoverable by the board pursuant to Business and Professions Code section 125.3, total \$10,324.00.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. Respondent's Pharmacist License Number RPH 59384 is revoked;
2. Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$10,324;
3. The board or its designee shall notify the Pharmacy Board in the State of Nevada of this revocation.

Dated: January 4, 2010.



ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA
Deputy Attorney General
4 State Bar No. 176908
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2100
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the First Amended Accusation
12 Against:
13 GUSTAVO ADOLFO LIZARAZO
8995 Jana Street
14 Spring Valley, CA 91977
15 Pharmacist License No. RPH 59384
16 Respondent.

Case No. 3367

OAH No. 2009110737

FIRST AMENDED ACCUSATION

17
18 Complainant alleges:

19 PARTIES

20 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
22 Affairs.

23 2. On or about March 12, 2007, the Board of Pharmacy issued Pharmacist License
24 Number RPH 59384 to Gustavo Adolfo Lizarazo (Respondent). The Pharmacist License was in
25 full force and effect at all times relevant to the charges brought herein, and will expire on
26 September 30, 2012, unless renewed.

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JURISDICTION

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2 3. This First Amended Accusation is brought before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4301 of the Code states, in relevant part:

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

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

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

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

1 the person to withdraw his or her plea of guilty and to enter a plea of
2 not guilty, or setting aside the verdict of guilty, or dismissing the
3 accusation, information, or indictment.

4 5. Section 482 of the Code states:

5 Each board under the provisions of this code shall develop criteria
6 to evaluate the rehabilitation of a person when:

7 (b) Considering suspension or revocation of a license under Section 490.

8 Each board shall take into account all competent evidence of
9 rehabilitation furnished by the applicant or licensee.

10 6. Section 490 of the Code states:

11 (a) In addition to any other action that a board is permitted to take
12 against a licensee, a board may suspend or revoke a license on the
13 ground that the licensee has been convicted of a crime, if the crime is
14 substantially related to the qualifications, functions, or duties of the
15 business or profession for which the license was issued.

16 (b) Notwithstanding any other provision of law, a board may
17 exercise any authority to discipline a licensee for conviction of a crime
18 that is independent of the authority granted under subdivision (a) only
19 if the crime is substantially related to the qualifications, functions, or
20 duties of the business or profession for which the licensee's license was
21 issued.

22 (c) A conviction within the meaning of this section means a plea or
23 verdict of guilty or a conviction following a plea of nolo contendere.
24 Any action that a board is permitted to take following the
25 establishment of a conviction may be taken when the time for appeal
26 has elapsed, or the judgment of conviction has been affirmed on
27 appeal, or when an order granting probation is made suspending the
28 imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code.

(d) The Legislature hereby finds and declares that the application of
this section has been made unclear by the holding in Petropoulos v.
Department of Real Estate (2006) 142 Cal.App.4th 554, and that the
holding in that case has placed a significant number of statutes and
regulations in question, resulting in potential harm to the consumers of
California from licensees who have been convicted of crimes.
Therefore, the Legislature finds and declares that this section
establishes an independent basis for a board to impose discipline upon
a licensee, and that the amendments to this section made by Senate

1 Bill 797 of the 2007-08 Regular Session do not constitute a change to,
2 but rather are declaratory of, existing law.

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10 7. Section 493 of the Code states:

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12 Notwithstanding any other provision of law, in a proceeding
13 conducted by a board within the department pursuant to law to deny an
14 application for a license or to suspend or revoke a license or otherwise
15 take disciplinary action against a person who holds a license, upon the
16 ground that the applicant or the licensee has been convicted of a crime
17 substantially related to the qualifications, functions, and duties of the
18 licensee in question, the record of conviction of the crime shall be
19 conclusive evidence of the fact that the conviction occurred, but only
20 of that fact, and the board may inquire into the circumstances
21 surrounding the commission of the crime in order to fix the degree of
22 discipline or to determine if the conviction is substantially related to
23 the qualifications, functions, and duties of the licensee in question.

24 As used in this section, "license" includes "certificate," "permit,"
25 "authority," and "registration."

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

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

9. California Code of Regulations, title 16, section 1769, states:

(b) When considering the suspension or revocation of a facility or a
personal license on the ground that the licensee or the registrant has
been convicted of a crime, the board, in evaluating the rehabilitation of
such person and his present eligibility for a license will consider the
following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or
offense(s).

(4) Whether the licensee has complied with all terms of parole,

1 a. On or about March 18, 2007, Respondent was in a public place (528 F Street,
2 San Diego, California) under the influence of alcohol in a condition that he was unable to exercise
3 care for his own safety or the safety of others.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct for

6 Use of Alcohol To Extent Dangerous To Self or Others on June 5, 2010)

7 13. Respondent is subject to disciplinary action under Business and Professions Code
8 section 4301, subdivision (h), in that he used alcohol to the extent or in a manner as to be
9 dangerous or injurious to himself or to any other person, or to the extent that the use impaired his
10 ability to conduct with safety to the public the practice authorized by his pharmacist license. The
11 circumstances are as follows:

12 a. On or about June 5, 2010, Respondent was in a public place (400 Island Ave.,
13 San Diego, California) under the influence of alcohol in a condition that he was unable to exercise
14 care for his own safety or the safety of others.

15 **SIXTH CAUSE FOR DISCIPLINE**

16 (Unprofessional Conduct for

17 Use of Alcohol To Extent Dangerous To Self or Others on June 10, 2010)

18 13. Respondent is subject to disciplinary action under Business and Professions Code
19 section 4301, subdivision (h), in that he used alcohol to the extent or in a manner as to be
20 dangerous or injurious to himself or to any other person, or to the extent that the use impaired his
21 ability to conduct with safety to the public the practice authorized by his pharmacist license. The
22 circumstances are as follows:

23 a. On or about June 10, 2010, Respondent was arrested for and unlawfully drove a
24 vehicle while under the influence of an alcoholic beverage in violation of Vehicle Code section
25 23152, subdivision (a).

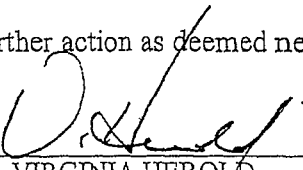
26 **PRAYER**

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

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1. Revoking or suspending Pharmacist License Number RPH 59384 issued to Gustavo Adolfo Lizarazo;
2. Ordering Gustavo Adolfo Lizarazo to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/26/10



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

SD2009804175

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 RON ESPINOZA, State Bar No. 176908
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5
6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2100
7 Facsimile: (619) 645-2061
8 Attorneys for Complainant

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11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:
13 **GUSTAVO ADOLFO LIZARAZO**
8995 Jana Ct.
14 Spring Valley, CA 91977
15 Pharmacist License No. RPH 59384
16 Respondent.

Case No. 3367

ACCUSATION

17
18 Complainant alleges:

19 PARTIES

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about March 12, 2007, the Board of Pharmacy issued Pharmacist
23 License Number RPH 59384 to Gustavo Adolfo Lizarazo (Respondent). The Pharmacist License
24 was in full force and effect at all times relevant to the charges brought herein, and will expire on
25 September 30, 2010, unless renewed.

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JURISDICTION

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3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4301 of the Code states, in relevant part:

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

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be 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.

(i) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may 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.

5. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(b) Considering suspension or revocation of a license under Section 490.

///

1 Each board shall take into account all competent evidence of rehabilitation
2 furnished by the applicant or licensee.

3 6. Section 490 of the Code states:

4 (a) In addition to any other action that a board is permitted to take against a
5 licensee, a board may suspend or revoke a license on the ground that the licensee has
6 been convicted of a crime, if the crime is substantially related to the qualifications,
7 functions, or duties of the business or profession for which the license was issued.

8 (b) Notwithstanding any other provision of law, a board may exercise any
9 authority to discipline a licensee for conviction of a crime that is independent of the
10 authority granted under subdivision (a) only if the crime is substantially related to the
11 qualifications, functions, or duties of the business or profession for which the
12 licensee's license was issued.

13 (c) A conviction within the meaning of this section means a plea or verdict of
14 guilty or a conviction following a plea of nolo contendere. Any action that a board is
15 permitted to take following the establishment of a conviction may be taken when the
16 time for appeal has elapsed, or the judgment of conviction has been affirmed on
17 appeal, or when an order granting probation is made suspending the imposition of
18 sentence, irrespective of a subsequent order under the provisions of Section 1203.4
19 of the Penal Code.

20 (d) The Legislature hereby finds and declares that the application of this
21 section has been made unclear by the holding in *Petropoulos v. Department of Real*
22 *Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a
23 significant number of statutes and regulations in question, resulting in potential harm
24 to the consumers of California from licensees who have been convicted of crimes.
25 Therefore, the Legislature finds and declares that this section establishes an
26 independent basis for a board to impose discipline upon a licensee, and that the
27 amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session
28 do not constitute a change to, but rather are declaratory of, existing law.

7. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a
board within the department pursuant to law to deny an application for a license or
to suspend or revoke a license or otherwise take disciplinary action against a person
who holds a license, upon the ground that the applicant or the licensee has been
convicted of a crime substantially related to the qualifications, functions, and duties
of the licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority,"
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8. California Code of Regulations, title 16, section 1770, states:

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

9. California Code of Regulations, title 16, section 1769, states:

....

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

10. Section 125.3 of the Code states, in pertinent part, that the 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.

FIRST CAUSE FOR DISCIPLINE

(May 14, 2008 Criminal Conviction for

Alcohol-Related Reckless Driving on May 31, 2007)

11. Respondent is subject to disciplinary action under Code sections 490 and 4301, subdivision (l), for a criminal conviction that is substantially related to his qualifications, functions, and duties as a pharmacist. The circumstances are as follows:

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1 a. On or about May 31, 2007, Respondent drove a vehicle upon a highway in
2 willful or wanton disregard for the safety of persons or property, after consuming alcohol, in
3 violation of Vehicle Code section 23103.

4 b. On or about May 14, 2008, in a criminal proceeding entitled *People v.*
5 *Gustavo Adolfo Lizarazo*, in Monterey County Superior Court, Case No. CRMS258751A,
6 Respondent was convicted by his plea of nolo contendere of violating Vehicle Code section
7 23103, pursuant to Vehicle Code section 23103.5 [alcohol-related reckless driving], a
8 misdemeanor.

9 c. On or about May 14, 2008, Respondent was sentenced as follows:
10 imposition of sentence suspended and Respondent placed on probation for a period of three
11 years. Respondent was also ordered to serve one day in jail (credit given for time served of one
12 day), enroll in an Alcohol Program, and pay fines and fees.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct for

15 Use of Alcohol To Extent Dangerous To Self or Others on May 31, 2007)

16 12. Respondent is subject to disciplinary action under Business and Professions
17 Code section 4301, subdivision (h), in that he used alcohol to the extent or in a manner as to be
18 dangerous or injurious to himself or to any other person, or to the extent that the use impaired his
19 ability to conduct with safety to the public the practice authorized by his pharmacist license, as set
20 forth in paragraph 11 above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct for

23 Use of Alcohol To Extent Dangerous To Self or Others on April 22, 2007)

24 13. Respondent is subject to disciplinary action under Business and Professions
25 Code section 4301, subdivision (h), in that he used alcohol to the extent or in a manner as to be
26 dangerous or injurious to himself or to any other person, or to the extent that the use impaired his
27 ability to conduct with safety to the public the practice authorized by his pharmacist license. The
28 circumstances are as follows:

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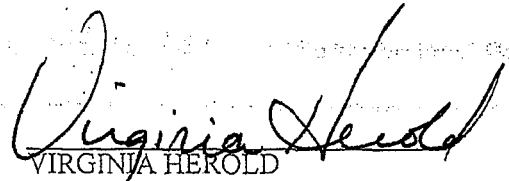
a. On or about April 22, 2007, Respondent was in a public place (479 Alvarado Street, Monterey, California) under the influence of alcohol in a condition that he was unable to exercise care for his own safety or the safety of others.

PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 59384, issued to Gustavo Adolfo Lizarazo;
2. Ordering Gustavo Adolfo Lizarazo to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/5/09


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

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