

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

In the Matter of the Accusation Against:

GINA RENEE D'AMATO

Pharmacy Technician Registration
No. TCH 93921

Respondent.

Case No. 4728

OAH No. 2014080271

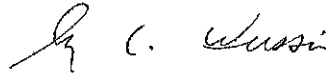
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 10, 2015.

It is so ORDERED on March 11, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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PROPOSED DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge (ALJ), Office of Administrative Hearings, State of California, on November 10, 2014, in Los Angeles.

Linda L. Sun, Supervising Deputy Attorney General, and Adam Van Korlaar, certified law clerk, represented complainant.

Respondent Gina Renee D'Amato represented herself.

Oral and documentary evidence was received, and argument was heard. The record was held open to allow respondent to submit a performance evaluation from her employer by November 24, 2014, and for complainant's counsel to submit a written response or objections by December 8, 2014.

On December 8, 2014, OAH received from respondent a two-page handwritten letter dated December 3, 2014, and a three-page performance evaluation. During her review of the record, the ALJ noted that there was no indication that respondent's documents had been served on complainant's counsel, and OAH had not received any response to the documents from complainant's counsel. The ALJ, upon her own motion, accepted respondent's documents and issued a post-hearing order dated January 6, 2015, that re-opened the record in order to provide respondent's documents to complainant's counsel and allow said counsel to submit a written response or objections by January 16, 2015. The ALJ's post-hearing order, which is hereby marked as Exhibit 7, indicated that the record would close upon OAH's receipt of complainant's written response or objections. OAH received a letter dated January 8, 2015, from complainant's counsel, indicating that complainant did not object to the admission of respondent's documents. The letter from complainant's counsel is hereby

marked as Exhibit 8. Respondent's two-page letter and three-page performance evaluation are hereby collectively marked and admitted as Exhibit A. The record was closed and the matter was submitted on January 8, 2015.

FACTUAL FINDINGS

1. On June 16, 2014, Virginia Herold (complainant) filed the Accusation in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board), State of California.

2. On September 9, 2009, the Board issued pharmacy technician registration number TCH 93921 to Gina Renee D'Amato (Respondent). The registration was in full force and effect at all relevant times and will expire on April 30, 2015, unless renewed. The Board's records show no prior disciplinary action taken against Respondent's registration.

Respondent's Conviction

3. On January 9, 2012, in the Superior Court, County of Los Angeles, case number 1JB10703, Respondent was convicted on her plea of nolo contendere to one count of violating Vehicle Code section 12500, subdivision (a) (driving without a valid license), a misdemeanor. At a sentencing hearing on April 9, 2012, Respondent was placed on summary probation for 12 months under terms and conditions including that she pay various fines and assessments, or in lieu of fines, perform four days of community labor; not drive a motor vehicle without a valid driver's license in her possession; and obey all laws and further orders of the court. Respondent filed proof of completion of four days of community labor with the court on September 24, 2012.

4. The facts and circumstances underlying the conviction are: On November 9, 2011, a Los Angeles County sheriff's deputy was monitoring traffic at the intersection of Mauna Loa Avenue and Calera Avenue in Azusa. The deputy saw a vehicle driven by Respondent fail to stop at a stop sign at the intersection. He initiated a traffic stop and pulled over Respondent's vehicle. The deputy obtained driver's license information from Respondent, who was the only person in the vehicle. A records check of Respondent's driver's license information revealed that she had a felony \$10,000 warrant for Health and Safety Code section 11350 and her driver's license was suspended. When the deputy advised Respondent of this information, Respondent told the deputy that she knew her license was suspended, but she did not know she had a warrant and believed she had taken care of the issue several years ago. The deputy arrested Respondent for the warrant and for driving on a suspended license.

Unlawful Possession of Controlled Substance

5. On December 13, 2007, at 12:06 a.m., Los Angeles County sheriff's deputies found Respondent in possession of 0.22 net grams of rock cocaine and a cocaine pipe. The

deputies had observed a car driven by Respondent parked suspiciously near the intersection of Lake Avenue and New York Drive in Altadena. When the deputies approached the vehicle and contacted Respondent, they smelled marijuana. They had Respondent and her male passenger exit the vehicle. The deputies saw that Respondent had a rolled piece of tissue paper in her hand. They recovered the paper and found it contained 0.22 net grams of cocaine. The deputies also found a cocaine pipe in Respondent's jacket pocket. Respondent was placed under arrest.

6. (A) On February 29, 2008, a criminal case was filed against Respondent alleging that, on December 13, 2007, she violated Health and Safety Code sections 11350, subdivision (a) (possession of controlled substance), a felony, and 11364, subdivision (a) (possession of smoking device), a misdemeanor. According to the court records, on March 17, 2008, Respondent failed to appear for her arraignment and the court issued a \$10,000 warrant for her arrest. No further activity occurred in the criminal case until three years later when, on November 16, 2011, the arrest warrant was recalled as a result of Respondent's arrest on November 9, 2011, discussed in Finding 4, above.

(B) On January 10, 2012, at a bench warrant hearing, Respondent entered pleas of not guilty to the two criminal charges filed against her. The court also ordered a pre-conviction report and set a further hearing for January 31, 2012. The pre-conviction report filed by the probation officer indicated, among other things, that a search of criminal records disclosed that Respondent had six outstanding traffic warrants, each with bail amounts ranging from \$670 to \$850. At the January 31, 2012 hearing, the court ordered Respondent to attend 12-step meetings two times per week and submit proof of attendance when she appeared at the next scheduled court date in April. Respondent testified that she attended Narcotics Anonymous (NA) two times per week, performed community service, and did what the court asked her to do. On April 2, 2012, the court found that Respondent complied with all of the court-ordered terms and conditions, and the two criminal charges against her were dismissed in furtherance of justice pursuant to Penal Code section 1385.

Testimony of Board's Inspector

7. Karla Retherford-Parreira, Pharm.D. (Parreira) has been an inspector for the Board for the past three years. Parreira is currently licensed as a pharmacist in California and Nevada. She has been licensed by the Board as pharmacist since 1991. As a pharmacist, Parreira has 15 years' experience working in retail settings and also operated her own business. Parreira proffered her opinions regarding the Board's allegations that Respondent violated laws and regulations governing pharmacy.

8. Parreira's testimony established that a pharmacy technician has access to all types of drugs and medications, including controlled substances which are highly addictive. In general, a licensed pharmacy technician is allowed to count, pour, and label bottles of various types of drugs and medications, but can do so only under the direct supervision of a pharmacist. A pharmacy technician must be honest and trustworthy, must obey the law, and must be able to follow directions.

9. Parreira did not know Respondent prior to this case. Parreira reviewed documents, including the Accusation and exhibits presented at this hearing. Based on her education and experience, and review of documents, Parreira opined that Respondent violated pharmacy laws and regulations by her unlawful possession of rock cocaine and drug paraphernalia. Parreira also opined that Respondent's driving her vehicle without a license was a knowing violation of law and substantially related to the qualifications, functions, and duties of a pharmacy technician. The arrest report included Respondent's statement to the arresting officer that she knew her driver's license was suspended. Pharmacy is a highly regulated profession. A pharmacy technician must respect and obey the law.

Mitigation

10. At this hearing, Respondent testified regarding the November 2011 traffic stop (Finding 4, above). Respondent testified that, at the time her vehicle was pulled over, she was unaware that her driver's license was suspended or that she had an outstanding warrant. Respondent testified she first learned of the suspension and the warrant when the deputy sheriff told her about it at the scene. Respondent denied that she told the deputy that she knew her driver's license was suspended, as reported in the Incident Report. (Exh. 4.) Respondent's testimony does not establish mitigation or excuse for her crime of driving with a suspended license.

11. Respondent testified regarding the 2007 incident (Finding 5, above). Respondent testified that she had driven to a gas station with a male passenger to whom she had offered a ride. Respondent testified she was pumping gas when a deputy sheriff approached her, while another deputy contacted the male passenger sitting in her car. Respondent denied she had any drugs in her hand. She was pumping gas when the deputy approached and asked her if she "knew someone." According to Respondent, when the other deputy pulled the male passenger from the car, the deputy saw rock cocaine on the dash board, and also found a bag of marijuana on the male passenger. Respondent testified there was no rock cocaine on the dash board when she exited the car to pump gas. She testified she was unaware that the male passenger had rock cocaine or marijuana in his possession until those items were found by the deputy sheriff. Respondent testified that the male passenger was given a ticket or citation by the deputies and allowed to go home. She, on the other hand, was arrested and taken to jail, where she claimed she was held for six days until being released. Respondent testified she only knew the male passenger by his first name, Manny, and she did not know where he lived but had seen him around the apartment complex across the street from her mother's house in Pasadena. Respondent's testimony regarding the 2007 incident was not corroborated by any documentary evidence or other witness testimony. Viewed in its totality, Respondent's version of the incident was less plausible than that recounted in the probation officer's pre-conviction report. (Exh. 5.) Respondent's testimony was insufficient to establish mitigation or excuse for her unlawful possession of a controlled substance (cocaine) and a cocaine pipe.

12. At the time of her arrest in November 2011, Respondent was living in Duarte. Respondent had moved to Duarte from Pasadena, where she had been living at her mother's house. Respondent's testimony was unclear as to when she moved from Pasadena to Duarte, at various times claiming she moved to Duarte in 2006, 2007 and 2008, but then later claiming she was living at her mother's house in Pasadena at the time of her arrest in 2007. Respondent testified she was never notified of the \$10,000 arrest warrant issued by the court in March 2008, and was never notified of the suspended status of her driver's license. Respondent testified she did not notify the court of the change in her address when she moved to Duarte.

Rehabilitation

13. Respondent is 46 years old. Respondent and her wife were married for six years and have an adult daughter. They are now separated and living in separate households.

14. Respondent previously worked as a pharmacy technician in a Ralph's supermarket pharmacy for five years, from November 2009 until August 2014. On August 29, 2014, she was suspended from her employment at Ralph's. Respondent testified she is appealing the suspension. According to Respondent, she was suspended because the Ralph's pharmacist claimed that Respondent recommended an over-the-counter product to a customer. Respondent denies that she told the customer what medicine to get, and she was merely getting the medicine that the customer requested.

15. Respondent presented a performance evaluation dated May 22, 2014, completed by her supervisor at Ralph's. (Exh. A.) Respondent was given an overall rating of "needs improvement." She was rated as meeting expectations in the areas of knowledge of work, communication, customer service, and safety. The supervisor comments included that Respondent "has the knowledge and job skills to be a good technician," she does a good job with customers, and communicates well with co-workers. Respondent was rated as needing improvement or failing to meet expectations in the areas of quality of work, productivity, dependability, and attendance. The supervisor comments in those areas included that Respondent has had excessive absences and leaves work early, which affected the daily operations of the pharmacy; and she has not been dependable and reliable on the job in terms of being on time, and ready, willing, and able to work.

16. Respondent testified she rarely drinks alcohol, maybe once a year. She grew up with an alcoholic and resented it. Respondent testified she used marijuana as a teenager but has not used it for years. She testified she tried cocaine once at a party in the early 2000s. Respondent testified she has not used any other drugs.

17. Respondent testified that she graduated from pharmacy technician school in August 2009 and was second in her class. Three months later, in November 2009, she was hired as a pharmacy technician at the Ralph's pharmacy (discussed above). Respondent described herself as having an "excellent work record."

Cost Recovery

18. The reasonable cost of the investigation and prosecution incurred by the Board in this case is \$2,152.50, consisting of \$30 of investigative costs and \$2,122.50 of prosecution costs. (Exh. 3.)

19. Respondent is not currently working and has been on disability since September 2014. Respondent has been supporting herself through her savings and help from her family. She lives with a roommate who receives worker's compensation and contributes \$500 for rent. Respondent testified that she owes \$7,000 for student loans and that her savings will be depleted in a few months, but presented no documentation to substantiate this testimony.

LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 4300, subdivision (a), any license issued by the Board may be suspended or revoked.¹

2. Section 4301 provides, in pertinent part: "The board shall take action against any holder of a license who is guilty of unprofessional conduct." Section 4301 defines unprofessional conduct as including, but not limited to, the following:

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

Subdivision (l): The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. [A similar provision is contained in section 490.]

First Cause for Discipline

3. Cause exists, pursuant to sections 4301, subdivision (l), and 490, to suspend or revoke Respondent's pharmacy technician registration, for unprofessional conduct, in that, on January 9, 2012, Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a registered pharmacy technician, based on Factual Findings 3 and 4, and Legal Conclusions 4 and 5, below.

4. (A) California Code of Regulations, title 16 (CCR), section 1770 provides, in pertinent part, that "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

¹ All further statutory references are to the Business and Professions Code unless otherwise indicated.

evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his [or her] license or registration in a manner consistent with the public health, safety, or welfare."

(B) Under section 4301, subdivision (l), in the case of a conviction not involving controlled substances or dangerous drugs, the Board "may inquire into the circumstances surrounding the commission of the crime . . . to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter."

5. Respondent was convicted on January 9, 2012, of violating Vehicle Code section 12500, subdivision (a). That statute reads, in pertinent part: "A person may not drive a motor vehicle upon a highway, unless the person then holds a valid driver's license issued under this code." Respondent drove a vehicle without a license on one occasion on November 9, 2011. Pursuant to section 4301, subdivision (l), the Board is allowed to inquire into the circumstances surrounding the commission of the crime to determine if it is "substantially related." Here, Respondent knowingly violated Vehicle Code section 12500, subdivision (a), as established by her statement to the arresting officer, after her vehicle was pulled over, that she knew her driver's license was suspended. In addition, as reported in the January 31, 2012 pre-conviction report, Respondent had six outstanding traffic warrants. Respondent's crime on November 9, 2011, when viewed with the surrounding circumstances of her six outstanding traffic warrants and statement to the arresting officer that she knew her license was suspended, demonstrates a propensity and apparent unwillingness to obey the law. Pharmacy is a highly regulated profession, and pharmacy technicians must be trusted to obey the law. Therefore, Respondent's crime is "substantially related" because, to a substantial degree, it evidences her present and potential unfitness to perform the functions authorized by her pharmacy technician registration in a manner consistent with the public health, safety and welfare.

Second Cause for Discipline

6. Cause exists, pursuant to section 4301, subdivision (j), to suspend or revoke Respondent's pharmacy technician registration, for unprofessional conduct, in that, on December 13, 2007, Respondent possessed a controlled substance (cocaine) in violation of Health and Safety Code section 11350, subdivision (a), and section 4060, and possessed a smoking device (a cocaine pipe) in violation of Health and Safety Code section 11364, subdivision (a), based on Factual Findings 5 and 6, and Legal Conclusions 7 and 8.

7. (A) Under Health and Safety Code section 11350, subdivision (a), it is unlawful for a person to possess controlled substances specified in the statute except upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state. The controlled substances specified in Health and Safety Code section 11350, subdivision (a), include, but are not limited to, those specified in Health and Safety Code section 11054, subdivision (f)(1). "Cocaine base" is a Schedule I controlled substance specified in Health and Safety Code section 11054, subdivision (f)(1).

(B) Section 4060 provides, in part, that "[n]o person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician."

(C) Health and Safety Code section 11364, subdivision (a), provides, in pertinent part: "It is unlawful to possess . . . any device, contrivance, instrument, or paraphernalia used for unlawfully . . . smoking (1) a controlled substance specified in . . . paragraph (1) of subdivision (f) of Section 11054."

8. Respondent's pharmacy technician registration may be disciplined for wrongful conduct that occurred prior to the time the Board issued the registration. In *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 768, the California Supreme Court upheld discipline against an architect's license based on the architect's pre-licensure wrongful conduct. Further, there is no provision in section 4031 that limits disciplinary action against a Board licensee only for unprofessional conduct that occurs post-licensure. Thus, Respondent's pharmacy technician registration, which was issued in 2009, may be disciplined for her misconduct that occurred two years earlier in December 2007.

Disposition

9. Administrative proceedings to revoke, suspend or impose discipline on a professional license are non-criminal and non-penal; they are not intended to punish the licensee, but rather to protect the public. (*Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 785-786.)

10. The Board has developed Disciplinary Guidelines (Rev. 10/2007) (Guidelines), which are incorporated by reference in the Board's regulations at CCR section 1760. The Guidelines classify categories of violations and recommended penalties as Category I, II or III. In this case, Respondent's violations under Business and Professions Code section 4301 are classified as Category II, which are for violations with a serious potential for harm, involve greater disregard for pharmacy law and public safety, or reflect on ethics or care exercised or competence. The maximum penalty for Category II violations is revocation, and the minimum penalty is revocation stayed, three years probation. (Guidelines, pp. 73-76.)

11. The Guidelines set forth factors to be considered in determining the level of discipline to be imposed. The factors include: actual or potential harm to the public or any consumer; prior disciplinary record; prior warning(s); number and/or variety of current violations; nature and severity of the acts or offenses under consideration; aggravating evidence; mitigating evidence; rehabilitation evidence; time passed since the act(s) or offense(s); whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct; and financial benefit to the respondent from the misconduct. (Guidelines, p. 3.)

12. The revocation of Respondent's pharmacy technician registration is the appropriate discipline in this case. Protection of the public is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions. (Bus. & Prof. Code, § 4001.1.) Respondent's conduct raises concerns about her ability and willingness to perform the duties authorized by her pharmacy technician registration in a manner consistent with public protection. Pharmacy is a highly regulated profession. A registered pharmacy technician must be a person who can be trusted to obey laws and regulations. Respondent has violated the laws regulating controlled substances. She has violated simple traffic laws, and by her own admission, knowingly did so. She has a criminal history record that, as of January 2012, included six outstanding traffic warrants. She also had a \$10,000 felony arrest warrant issued against her that was outstanding for almost three years (March 2008 to November 2011). She claimed she did not receive notices from the court because her address changed when she moved from Pasadena to Duarte. But she admitted that she did not notify the courts and others about her address change. She did not take any other action to ensure that her mail was sent to the proper address. Also of concern is Respondent's failure to be honest and truthful in her testimony at this hearing. Her testimony regarding the 2007 cocaine incident and the 2011 traffic stop lacked the candor and clarity indicative of credible testimony. Respondent's testimony, in its totality, indicates she does not understand and appreciate her obligation to be honest and truthful in all matters pertaining to her licensure by the Board as a pharmacy technician. Respondent's pharmacy technician registration shall be revoked. (Factual Findings 2-17.)

Cost Recovery

13. Section 125.3, subdivision (a), provides, in pertinent part, that upon the Board's request in a disciplinary proceeding, "the administrative law judge may direct a licensee 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."

14. Cause exists to direct Respondent to pay the reasonable cost of investigation and enforcement of this matter pursuant to section 125.3. The reasonable cost of the investigation and enforcement of this matter is \$2,152.50. However, inasmuch as Respondent's pharmacy technician registration is being revoked, and she is not currently employed and on disability, she will not be required to pay the costs at this time. She will be required to pay the costs as a condition for issuance of a new license or registration or the reinstatement of her revoked registration by the Board. (Factual Findings 18 and 19.)

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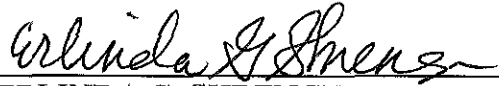
ORDER

1. Pharmacy technician registration number TCH 93921, issued to Respondent Gina Renee D'Amato, is revoked. Respondent shall relinquish her pharmacy technician registration to the Board within ten (10) days of the effective date of this decision.

2. Pursuant to Business and Professions Code section 4309, subdivision (a)(1), Respondent may not reapply or petition the Board for reinstatement of her revoked technician registration for three (3) years from the effective date of this decision. A condition of reinstatement shall be that Respondent is certified as defined in Business and Professions Code section 4202, subdivision (a)(4), and provides satisfactory proof to the Board.

3. As a condition precedent to reinstatement of her revoked pharmacy technician registration, or issuance of a new license or registration, Respondent shall reimburse the Board for its costs of investigation and prosecution in the amount of \$2,152.50. Said amount shall be paid in full prior to any reinstatement of her revoked pharmacy technician registration or the issuance of a new license or registration by the Board.

DATED: February 13, 2015


ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings

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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 **GINA RENEE D'AMATO**
710 E. Claraday St. #14
14 **Glendora, CA 91740**
Pharmacy Technician Registration
15 No. TCH 93921
16 Respondent.

Case No. 4728
ACCUSATION

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,
22 2. On or about September 9, 2009, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 93921 to Gina Renee D'Amato (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on April 30, 2015, unless renewed.

26 **JURISDICTION**

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

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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. 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."

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

"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

1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **COST RECOVERY**

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

8 10. **CONTROLLED SUBSTANCE**

9 a. "Cocaine (base)," is a Schedule I controlled substance as designated by Health and
10 Safety Code Section 11054, subdivision (f)(1) and is categorized as dangerous drug pursuant to
11 Business and Professions Code Section 4022.

12 b. "Marijuana," is a Schedule I controlled substance as defined in Health and Safety Code
13 section 11054, subdivision (d)(13).

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially Related Crime)**

16 11. Respondent is subject to disciplinary action under Code sections 4301, subdivision (1)
17 and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
18 Respondent was convicted of a crime substantially related to the qualifications, functions, and
19 duties of a pharmacy technician, as follows:

20 a. On or about April 9, 2012, Respondent was convicted of one misdemeanor count of
21 violating Vehicle Code section 12500, subdivision (a) [driving without a license] in the criminal
22 proceeding entitled *The People of the State of California v. Gina Renee Damato* (Super. Ct. Los
23 Angeles County, 2011, No. 1JB10703). The Court placed Respondent on 12 months probation,
24 with terms and conditions.

25 b. The circumstances surrounding the conviction are that on or about November 9, 2011,
26 Respondent was stopped by the Los Angeles County Sheriff's Department. A records check
27 revealed that Respondent was driving with a suspended license and that she had an outstanding
28 warrant.

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

DATED: 6/16/14 Virginia Herold

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

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