

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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. 4317

12 **MARTHA A. KECK**
13 **AKA MARTHA ANTOINETTE LARRY**
14 **P. O. Box 272**
Weaverville, CA 96093

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
31525

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about November 18, 1999, the Board of Pharmacy issued Pharmacy
23 Technician Registration Number TCH 31525 to Martha A. Keck, also known as (aka) Martha
24 Antoinette Larry, (Respondent). The Pharmacy Technician Registration was in full force and
25 effect at all times relevant to the charges brought herein and will expire on May 31, 2015, unless
26 renewed.

27 ///

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states in pertinent part:

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

7 5. Section 4300.1 of the Code states:

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

13 6. Section 4301 of the Code states in pertinent part:

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

17

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

21

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

27

28 “(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

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

7
8
9
10 **COST RECOVERY**

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Criminal Conviction)**

17 8. Respondent is subject to disciplinary action for unprofessional conduct under section
18 4301, subdivision (l), in that on or about March 1, 2012, in the Trinity County Superior Court
19 case entitled *People v. Martha Antoinette Larry*, Case Number 12F039, Respondent pled nolo
20 contendere to two counts of violating Penal Code section 273d, subdivision (a), inflicting corporal
21 injury on a child, a misdemeanor. The circumstances are as follows:

22 9. On or about January 21, 2012, Respondent yelled “who threw that” and ran towards a
23 group of three (3) minor children (Victim 1 (V1), Victim 2 (V2), and Victim 3 (V3)) who began
24 running away from her. Respondent grabbed V1 by the hair, and placed her hand around V1’s
25 throat pressing her thumb into V1’s windpipe with sufficient force to prevent V1 from breathing.
26 V2 yelled “leave her alone” and Respondent turned to V2 and grabbed V2 by the throat.
27 Respondent stated she had been hit by two snowballs, which V1 and V2 denied throwing. Upon
28 arrest, Respondent’s blood alcohol level was 0.2%.

29 **SECOND CAUSE FOR DISCIPLINE**

30 **(Acts Involving Moral Turpitude)**

31 10. Respondent is subject to disciplinary action for unprofessional conduct under section
32 4301, subdivision (f), in that on or about January 21, 2012, Respondent committed a crime against
33 the person, to wit, assault upon two (2) minor children as described in paragraph 9, above.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Use of Alcohol in a Manner or to an Extent Dangerous to Self or Others)**

3 11. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (h), in that on or about January 21, 2012, Respondent's consumed alcohol to
5 the extent that her blood alcohol level was 0.2% by volume, as described in paragraph 9, above.

6 **DISCIPLINE CONSIDERATIONS**

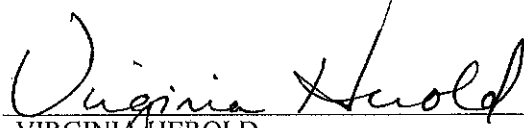
7 12. To determine the degree of discipline, if any, to be imposed on Respondent,
8 Complainant alleges that on or about June 10, 2009, in a prior criminal proceeding entitled *People*
9 *v. Martha Antoinette Larry* in Tehama Superior Court, Case Number NCR76846, Respondent
10 was convicted of violating Vehicle Code section 23152, subdivision (b) (driving under the
11 influence with blood alcohol level greater than 0.08% by volume), a misdemeanor. Respondent's
12 blood alcohol level on that occasion was 0.19% by volume. The record of the criminal
13 proceeding is incorporated as if fully set forth.

14 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 31525,
18 issued to Martha A. Keck, aka Martha Antoinette Larry;
- 19 2. Ordering Martha A. Keck, aka Martha Antoinette Larry, to pay the Board of
20 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
21 Business and Professions Code section 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 1/31/14


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

SA2012106630
11205506.doc