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

In the Matter of the Accusation Against:

Case No. 3635

WALTER JOAQUIN CHAVEZ
14221 Mercer Street
Arleta, CA 91331
**Pharmacy Technician Registration No. TCH
35962**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about November 3, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3635 against Walter Joaquin Chavez (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 24, 2001, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 35962 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2011, unless renewed.

3. On or about November 9, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3635, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 sections 136 and 4100 and California Code of Regulations, title 16, section 1704, is required to be
3 reported and maintained with the Board, which was and is: 14221 Mercer Street, Arleta, CA
4 91331.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 3635.

17 7. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions
20 or upon other evidence and affidavits may be used as evidence without any notice to
21 respondent.

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
25 as well as taking official notice of all the investigatory reports, exhibits and statements contained
26 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3635,
27 finds that the charges and allegations in Accusation No. 3635, are separately and severally true
28 and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement of this matter are \$2,075 as of December 15, 2010.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Walter Joaquin Chavez has
3 subjected his Pharmacy Technician Registration (No. TCH 35962) to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.:

8 a. Business and Professions Code section 4301, subdivision (l) and (k) (Substantially
9 Related Convictions.)

10 b. Business and Professions Code section 4301, subdivision (h) (Dangerous Use of
11 Alcohol.)

12 c. Business and Professions Code section 4301, subdivision (f) (Crimes of Moral
13 Turpitude and Dishonesty.)

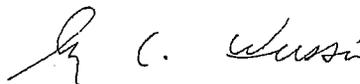
14 ORDER

15 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 35962, heretofore
16 issued to Respondent Walter Joaquin Chavez, is revoked.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18 written motion requesting that the Decision be vacated and stating the grounds relied on within
19 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
20 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

21 This Decision shall become effective on March 28, 2011.

22 It is so ORDERED February 25, 2011.



23
24 STANLEY C. WEISSER, BOARD PRESIDENT
25 FOR THE BOARD OF PHARMACY
26 DEPARTMENT OF CONSUMER AFFAIRS

26 60590520.DOC
27 DOJ Matter ID:LA2010501506
28 Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Supervising Deputy Attorney General
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6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:

Case No. 3635

11 **WALTER JOAQUIN CHAVEZ**
12 **14221 Mercer Street**
Arleta, CA 91331
13 **Pharmacy Technician Registration No. TCH**
35962

A C C U S A T I O N

14 Respondent.
15

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about January 24, 2001, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 35962 to Walter Joaquin Chavez (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on February 28, 2011, unless renewed.

25 JURISDICTION

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

1 4. Section 4301 of the Code states:

2 "The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4 Unprofessional conduct shall include, but is not limited to, any of the following:

5

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

9

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

15

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

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

21 "(l) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
4 of this provision. The board may take action when the time for appeal has elapsed, or the
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
9 indictment.

10

11 5. Section 125.3 of the Code states, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee 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 6. Section 118 of the Code states:

16 "(a) The withdrawal of an application for a license after it has been filed with a board in the
17 department shall not, unless the board has consented in writing to such withdrawal, deprive the
18 board of its authority to institute or continue a proceeding against the applicant for the denial of
19 the license upon any ground provided by law or to enter an order denying the license upon any
20 such ground.

21 "(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a
22 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
23 order of a court of law, or its surrender without the written consent of the board, shall not, during
24 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
25 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
26 provided by law or to enter an order suspending or revoking the license or otherwise taking
27 disciplinary action against the licensee on any such ground.

1 Influence of Drug or Alcohol) in the Superior Court for the State of California (County of Los
2 Angeles) in a case entitled *People of the State of California v. Walter Joaquin Chavez*, Case No.
3 5VN03770.

4 e. On or around October 24, 2002, Respondent pled guilty to one misdemeanor
5 count of violating Vehicle Code section 12500, subdivision (a) (Driving With a Suspended
6 License) in the Superior Court for the State of California (County of Los Angeles) in a case
7 entitled *People of the State of California v. Walter Joaquin Chavez*, Case No. 2EL07799.

8 f. On or around November 22, 2002, Respondent was convicted following a jury
9 trial of one misdemeanor count of violating Penal Code section 273, subdivision (a) (Corporal
10 Injury on Spouse) and one misdemeanor count of violating Penal Code section 242-243(E)
11 (Battery on Spouse) in the Superior Court for the State of California (County of Los Angeles) in a
12 case entitled *People of the State of California v. Walter Joaquin Chavez*, Case No. 2CR10960.

13 SECOND CAUSE FOR DISCIPLINE

14 (Dangerous Use of Alcohol)

15 9. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
16 he used alcohol in a manner dangerous to himself and/or others as further described in paragraph
17 No. 8, subsections (a), (c), and (d).

18 THIRD CAUSE FOR DISCIPLINE

19 (Crimes of Moral Turpitude and Dishonesty)

20 10. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that
21 he committed a crime of moral turpitude and/or dishonesty by driving on a suspended license as
22 further described in paragraph No. 8, subsections (a) and (e).

23 PRAYER

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

26 1. Revoking or suspending Pharmacy Technician Registration Number TCH 35962,
27 issued to Walter Joaquin Chavez;

28

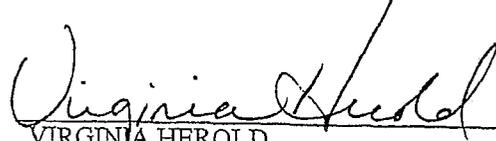
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2. Ordering Walter Joaquin Chavez to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED:

11/3/10



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

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