

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

In the Matter of the Accusation Against:

**TONIA RENEE ECKHARDT**  
**a.k.a. TONIA RENEE ECKHARDT-WARDEN,**  
**a.k.a. TONIA RENEE ECKHARDT-BUSH**  
P.O. Box 10885  
South Lake Tahoe, CA 96158

Original Pharmacy Technician Registration Number  
TCH 54448

Respondent.

Case No. 3794

OAH No. 2011120416

**DECISION**

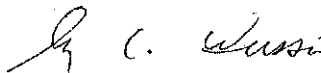
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as the decision in the above-entitled matter, except that, pursuant to the provisions of Government Code section 11517, subdivision (c)(2)(C), paragraph 2 appearing on page 1, of the Proposed Decision, is hereby modified for technical reasons as follows:

Deputy Attorney General Janice K. Lachman represented complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs. Anne Hunt, Supervising Inspector, was also present on the Board's behalf.

The technical change made above does not affect the factual or legal basis of the Proposed Decision, which shall become effective on November 21, 2012.

IT IS SO ORDERED this 22<sup>nd</sup> day of October, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

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

In the Matter of the Accusation Against:

Case No. 3794

TONIA RENEE ECKHARDT  
a.k.a. TONIA RENEE ECKHARDT-  
WARDEN, a.k.a. TONIA RENEE  
ECKHARDT-BUSH  
P.O. Box 10885  
South Lake Tahoe, CA 96158

OAH Case No. 2011120416

Original Pharmacy Technician Registration  
Number 54448,

Respondent.

**PROPOSED DECISION**

This matter was heard before Marilyn A. Woollard, Administrative Law Judge for the Office of Administrative Hearings (OAH), State of California, on June 5, 2012, in Sacramento, California.

Deputy Attorney General Janice K. Lachman represented complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs. Anne Hunt, Supervising Inspector, was also present on the Board's behalf.

Respondent Tonia Renee Eckhardt appeared by telephone and represented herself.

Oral and documentary evidence was received. At the conclusion of the hearing, the parties offered oral closing argument. The record remained open through June 15, 2012, for respondent to submit verification of completion of court-ordered counseling, and for complainant to reply to any documents submitted. On June 12, 2012, respondent timely submitted a Notification of Completion which was marked as Exhibit A. Complainant did not file a response to this document. On June 15, 2012, the record was closed and the matter was submitted for decision.

## FACTUAL FINDINGS

1. On February 24, 2004, the Board issued Pharmacy Technician Registration Number TCH 54448 to respondent. As indicated in the Board's License History Certification, respondent's license was in full force and effect until February 29, 2012, when it expired. There has been no prior discipline taken against respondent's license.

2. On September 23, 2011, complainant signed the Accusation against respondent in her official capacity. Complainant alleged that respondent's license should be disciplined for unprofessional conduct as described in Business and Professions Code section 4301, subdivision (1).<sup>1</sup> Specifically, complainant requested that respondent's license be revoked or suspended based upon her convictions of the crimes described in Factual Findings 4 and 5. Complainant further requested that respondent be ordered to pay the Board the reasonable costs of its investigation and enforcement of this matter, as authorized by section 125.3.

3. On November 3, 2011, respondent filed her Notice of Defense. The matter was then set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500, et seq.

### *Respondent's Convictions*

4. On January 15, 2010, in *People v. Tonia Renee Eckhardt-Warden* (Case Number S08CRF0030), the El Dorado Superior Court convicted respondent of a felony violation of Penal Code section 273.5, subdivision (a) (corporal injury to spouse), with a special allegation that respondent used a deadly and dangerous weapon (a knife), within the meaning of Penal Code section 12022, subdivision (b)(1), thereby causing the offense to be a serious felony within the meaning of Penal Code section 1192.7, subdivision (c)(23).<sup>2</sup>

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<sup>1</sup> Unless otherwise indicated, all undesignated statutory references are to the Business and Professions Code.

<sup>2</sup> Penal Code section 273.5, subdivision (a), provides that: "[a]ny person who willfully inflicts upon a person who is his or her spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child, corporal injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to six thousand dollars (\$6,000) or by both that fine and imprisonment." Subdivision (c) defines "traumatic condition" as "a condition of the body, such as a wound, or external or internal injury, including, but not limited to, injury as a result of strangulation or suffocation, whether of a minor or serious nature, caused by a

Respondent was placed on four years of formal probation, and ordered to serve 180 days in county jail, with 30 days straight time and the balance on electronic monitor. Included among the special conditions of her probation, respondent was ordered: (1) not to annoy, harass, threaten, or have any contact with the victim, Joseph Warden; (2) to complete a 52-week Batterer's Program; (3) not to consume or have in her possession or control any alcohol and not to frequent places where alcohol is the chief item of sale; (4) to abstain from possession, use, or involvement with restricted drugs or narcotics of any kind and to submit to search and to chemical testing of blood, breath, or urine as directed; and (5) to pay a total of \$2,385 in fines and fees.

The circumstances underlying this conviction occurred on January 25, 2008, when respondent became involved in a physical altercation with her husband at their home, during which respondent cut her husband's hand with a knife. Respondent's 14-year-old son observed this incident and took two knives away from respondent.

Respondent remains on probation for this conviction until January 15, 2014.

5. On March 5, 2010, in *People v. Tonia Renee Eckhardt-Warden* (Case Number S09CRM1235), the El Dorado Superior Court convicted respondent of a misdemeanor violation of Vehicle Code section 23103, subdivision (a) (reckless driving), based upon her plea of no contest.<sup>3</sup> Respondent was placed on three years of summary probation and ordered to obey all laws, not to operate a vehicle without a valid driver's license and automobile insurance, and to pay \$900 in fines and fees.

The circumstances underlying this conviction occurred on July 15, 2009, when South Lake Tahoe Police Officer Morrison observed respondent to be speeding, changing lanes and nearly colliding with another vehicle. Officer Morrison had to slow down to avoid being hit by respondent. Respondent then made an abrupt turn on to the right shoulder of the road, ran over a raised curb and on to the lawn in front of a business. Respondent told the officer that she was not doing anything to cause her to be unfocused on the road while driving. She was not aware she had almost caused a collision and believed she had pulled into a

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physical force. . ." Penal Code section 12022, subdivision (b)(1), provides: "[a]ny person who personally uses a deadly or dangerous weapon in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment pursuant [sic] in the state prison for one year, unless use of a deadly or dangerous weapon is an element of that offense."

<sup>3</sup> Vehicle Code section 23103, subdivision (a), provides: "[a] person who drives a vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving."

driveway. Throughout her conversation with Officer Morrison, respondent appeared to be reading a newspaper that was between the driver's and the passenger's seats. Her 10-year old son was in the car with her.

Respondent remains on probation for this conviction until March 5, 2013.

*Evidence of Rehabilitation*

6. Respondent's testimony is paraphrased in pertinent part as follows:

Respondent worked as a foster parent for 15 years. She took a break from this occupation while she learned the pharmacy trade. Respondent noted that, as a foster parent, she raised over 70 children without having any anger management issues.<sup>4</sup>

7. Respondent first began working at Raley's Drug Center in South Lake Tahoe as a pharmacy clerk in approximately 2002 or 2003. Respondent and another clerk were trained as pharmacy technicians by Raley's head pharmacist, Don Sable, who is now retired. She was "grandfathered in" as a pharmacy technician and has never received any complaints about her work. Respondent renewed her license after she stopped working with Raley's in 2008, but she did not renew it in February 2012 when it most recently expired. Following her convictions, respondent never received a renewal letter from the Board, so she assumed this was "tied up with her hearing."

8. Respondent was a foster parent during the January 2008 incident with her former husband, Mr. Warden. The incident occurred on a Friday night at approximately 10:30 p.m. At the time of the incident, four children were in the home: respondent's two children and two of their friends. Her older foster daughter was not present.

Respondent and her husband argued over a comment she had made about seeing her foster daughter engage in a sexual activity with her boyfriend. Respondent conceded that she has a history of being in abusive relationships but denied she was an abusive partner. Respondent asserted she was simply defending herself from her husband's violent actions and that she used the knife to defuse the problem and get him to leave, but that her plan backfired. Respondent denied making statements to the police that were reported in the police report (i.e., that respondent told her foster daughter's boyfriend he should have sex with her

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<sup>4</sup> As a foster parent, respondent had up to six children, including her two biological children, in her care. She also took foster children in emergency or respite situations.

sometime; and/or that after her husband got jealous and began throwing furniture, respondent told her husband to leave the house, then approached him and cut him with the knife to show him that she was serious).

Shortly after her arrest in January 2008, respondent lost her foster care license.

9. In his report, the police officer indicated that both respondent and her husband had been drinking, and he described objective signs of their intoxication. Respondent testified that her husband had been drinking and that he had medication in his system. Because her husband had been hurt on the job and the pharmacy was closed, respondent had given him a Vicodin she still had from a previous surgery. Respondent denied that she had shared any prescription medications with others in the past.

10. Respondent did not call 911 because her husband kept her from the phones. She did not take the children and leave because she did not know where she would have gone. Respondent denied any intent to harm her husband. Even though she told the police that this was their first physical altercation, respondent asserted that her husband had tried to kill her before. Respondent now believes she was experiencing battered woman's syndrome and that she lied to herself and others about how good her life was. She has learned this through years of therapy.

Respondent agreed the court issued an order prohibiting her from contact with her former husband. She has not seen him since the day after this incident.

11. After her felony conviction, respondent made changes to her life. She suffered post-traumatic stress disorder (PTSD) from the abuse that led to the January 2008, altercation with her husband. In May 2010, after her conviction, respondent moved from South Lake Tahoe to Truckee. She needed a fresh start for herself and her children. Mr. Warden was their stepfather and there was a lot of whispering in this small community.

12. Respondent explained that her reckless driving conviction was not a "wet reckless" conviction involving alcohol. Rather, as she drove, respondent was preoccupied with texting and was "really stressed" with issues in her pending criminal trial and upcoming sentencing. At the time, texting while driving was not against the law. Respondent agreed that she drove recklessly with her 10-year old son in the car and that her conduct involved "just stupidity."

13. Respondent highly values her pharmacy technician license. She has not been employed as a pharmacy technician since August 2008. Respondent believes that her convictions are the result of personal life issues that are unrelated to her pharmacy technician license. She stated that both incidents that resulted in her convictions occurred around the same time. She got married and was then

abused in a personal relationship. Before the 2008 incident that resulted in her felony conviction, respondent had stopped working at Raley's because she did not want to jeopardize her license.

Respondent is asking the Board to consider that she was in "a very abusive relationship" and is out of it now. She did a "one time, stupid thing." Respondent is dedicated to her family and her career so the Board should never have to worry about her in the future.

14. Respondent is currently unemployed. Her sole source of income is a check from SSI. She lives in Truckee and has children who are in school. She was unable to attend the hearing in person due to car problems. She uses resources from a community food bank and from her church.

15. Respondent was ordered to pay \$2,600 for her felony conviction and \$1,500 for her misdemeanor conviction. She is still making payments on these fines/fees.

16. Respondent testified that the felony conviction for corporal injury to spouse was still in the appellate court. On cross-examination, however, respondent conceded that the appellate court had recently affirmed this conviction. Respondent clarified that she is now working with an attorney to have her felony reduced to a misdemeanor and to receive a pardon. Respondent did not provide any documents from her attorney or the Superior Court regarding efforts to reduce her felony to a misdemeanor, or regarding efforts to obtain a pardon.

Respondent also reports that she is no longer required to see her probation officer, and is only required to submit a monthly report. Respondent's probation was transferred from Nevada County to El Dorado County. She believes that once she completes paying off her fines, her probation will be over.

17. Respondent provided a June 7, 2012 Community Recovery Resources "Notification of Completion" of "A New Way B.I.P" (Notification), signed by Cindy Otterness, CADIC II, Counselor. The Notification indicates that the program commenced on September 2, 2009, and was completed by respondent on October 28, 2010. The Notification was admitted and considered to the extent permitted by Government Code section 11513, subdivision (d).<sup>5</sup>

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<sup>5</sup> Government Code section 11513, subdivision (d), provides in pertinent part that "hearsay evidence may be used for the purpose of supplementing or explaining other evidence but over timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions..."

18. Respondent reports that, after completing this program, she has gone back to the program to share her experience with others. Respondent lectures on depression to women in a wet/reckless group. She is not afraid of life's challenges and informs women how she overcame obstacles without drugs, alcohol, suicide or mental illness.

Respondent reports that she is currently in counseling approximately once a week. She typically is in individual counseling because she does not do as well in group therapy. This is "voluntary" counseling because her probation officer never ordered her to do so. She also testified that she and her children have engaged in both individual and family therapy.

Respondent noted that one of her sons graduated with honors and will start college in the fall; another is in the top of his eighth grade class.

### *Discussion*

19. Respondent's felony conviction for corporal injury resulting in a traumatic condition to her spouse is based upon a very serious offense of deliberately cutting her former husband's hand with a knife. This conviction is substantially related to the qualifications, functions or duties of a licensee because it establishes that respondent has an inability to control her anger and her impulses, and is therefore potentially unfit to perform her duties as a pharmacy technician in a manner consistent with the public health, safety, or welfare. Respondent's misdemeanor reckless driving conviction is substantially related to her duties as a licensee because it demonstrates a lack of concern and care for potential injury to others while operating a motor vehicle. The fact that the conduct that resulted in these convictions did not occur while respondent was actually working as a pharmacy technician is not relevant. Respondent's conduct raises a serious question about the safety of the public in her presence.

20. Respondent remains on probation for her felony conviction for corporal injury to spouse until January 15, 2014. When a person is on criminal probation or parole, rehabilitation efforts are accorded less weight, "[s]ince persons under the direct supervision of correctional authorities are required to behave in exemplary fashion..." (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) Therefore, an insufficient period of time has passed for respondent to demonstrate rehabilitation.

21. In addition, respondent failed to acknowledge the seriousness of her conduct. After cutting her former husband with a knife, respondent was ordered to take a year-long batterer's program and to stay away from her victim. Nevertheless, respondent asserts that she is the victim and has battered spouse syndrome and PTSD. While respondent asserts she has learned this through extensive counseling and received SSI based upon these conditions, she failed to provide any letters from counselors or other documentation to substantiate her testimony. Respondent did



not call any witnesses on her behalf or provide any letters of recommendation from probation officers, individuals with whom she worked as a foster parent, or from therapists or counselors with whom she and her children have engaged in counseling.

22. Finally, respondent's testimony demonstrated that she has not taken full responsibility for her conduct. Respondent minimized her role and seemed to characterize her conduct as a legitimate response to spousal abuse. When questioned about her conduct, respondent became overly defensive and attempted to demean counsel's understanding of the situation. Respondent's attitude of defensiveness and condescension weakened her overall credibility.

When all the facts and circumstances are considered, respondent has not demonstrated sufficient rehabilitation to warrant the issuance of a probationary license consistent with the public interest at this time.

#### *Costs*

23. Pursuant to section 125.3, subdivision (a), the Board may request an order directing 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." A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the entity bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. (§ 125.3, subd. (c).)

In support of its request for costs, complainant submitted the Certification of Prosecution Costs: Declaration of Janice K. Lachman, signed by Ms. Lachman on June 4, 2012. Ms. Lachman declared that, as indicated in the Department of Justice's (DOJ's) "Matter Time Activity by Professional Type," the DOJ has billed the Board a total of \$1,572.50 for attorney time spent working on this matter. This reflects a total of 9.25 attorney hours from August 9, 2010 through June 1, 2012.

The Board's request that respondent reimburse it \$1,572.50 for its legal costs is reasonable.

24. As indicated in Factual Findings 14 and 15, respondent's financial circumstances are limited. Respondent will be ordered to pay the Board's cost, pursuant to a payment plan, if and when she petitions for reinstatement of her license.

## LEGAL CONCLUSIONS

1. In this action to discipline respondent's license as a pharmacist technician, complainant bears the burden of proof on the charges alleged in the Accusation. The standard of proof is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 855-856.) Clear and convincing evidence means the evidence is "so clear as to leave no substantial doubt" and is "sufficiently strong to command the unhesitating assent of every reasonable mind." (*Mathieu v. Norrell Corporation* (2004) 115 Cal.App.4th 1174, 1190 [citing *Mock v. Michigan Millers Mutual Ins. Co.* (1992) 4 Cal.App.4th 306, 332-333].)

2 Section 4301, subdivision (l), provides that the Board shall take action against any holder of a license who is guilty of unprofessional conduct and that unprofessional conduct includes the "conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . ." 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." (*Ibid.*) 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.

3. The regulations pertaining to pharmacy technicians are set forth in California Code of Regulations, title 16 (hereafter 16 CCR). These regulations provide that, for the purpose of suspension, or revocation of a license, "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." (16 CCR, § 1770.)

4. As set forth in the Factual Findings and Legal Conclusions as a whole, and particularly in Factual Finding 19, respondent's convictions are substantially related to the qualifications, functions or duties of a pharmacy technician licensee.

5. Pursuant to 16 CCR section 1769, subdivision (b), when the Board considers the suspension or revocation of a license on the grounds that the licensee has been convicted of a crime, the Board shall consider the following criteria in evaluating that licensee's rehabilitation and present eligibility for a license:

- (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.

The regulations provide that, in reaching a decision on a disciplinary action, the Board shall consider the disciplinary guidelines entitled "Disciplinary Guidelines" (Rev. 10/2007). (16 CCR, § 1760.) Deviation from these guidelines is appropriate where the Board, "in its sole discretion, determines that the facts of the particular case warrant such a deviation-the presence of mitigating factors; the age of the case; evidentiary problems." (*Ibid.*) These guidelines have been considered.

As indicated in the Factual Findings and Legal Conclusions as a whole, respondent's convictions occurred in 2010 and she remains on formal probation for her felony conviction until January 15, 2014. Although respondent has completed her court-ordered counseling, she has not provided sufficient evidence of rehabilitation and it is not in the public interest to grant her a probationary license at this time.

6. *Costs*: Pursuant to *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, various factors must be considered in determining the amount of costs to be assessed. The Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a licensee who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the licensee's subjective good faith belief in the merits of his or her position, as well as whether the licensee has raised a colorable challenge to the proposed discipline. The Board must determine that the licensee will be financially able to make later payments. Finally, the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation to prove that a licensee engaged in relatively innocuous misconduct.

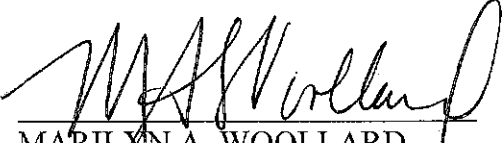
As set forth in Factual Findings 23 and 24, complainant's request that respondent reimburse it \$1,572.50 for its legal costs is reasonable. If and when she successfully petitions for reinstatement of her license, respondent shall be ordered to pay the Board's costs in the total amount of it \$1,572.50, pursuant to a payment plan.

**ORDER**

Pharmacy Technician Registration Number TCH 54448, issued to respondent Tonia Renee Eckhardt, is hereby REVOKED.

Respondent will be ordered to pay the Board's cost in the total amount of \$1,572.50, pursuant to a payment plan, if and when respondent successfully petitions for reinstatement of her license.

DATED: July 24, 2012

  
MARILYN A. WOOLLARD  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
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11 In the Matter of the Accusation Against:

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14 **ECKHARDT-BUSH**  
15 **P.O. Box 10885**  
**South Lake Tahoe, CA 96158**

OAH No.

**ACCUSATION**

16 **Original Pharmacy Technician Registration**  
17 **No. 54448**

Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about February 24, 2004, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 54448 to Tonia Renee Eckhardt, also known as Tonya Renee  
25 Eckhardt-Warden and Tonia Renee Eckhardt-Bush (Respondent). The Pharmacy Technician  
26 Registration was in full force and effect at all times relevant to the charges brought herein and  
27 will expire on February 29, 2012, unless renewed.

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JURISDICTION

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 unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4300 of the Code states:

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

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

- "(1) Suspending judgment.
- "(2) Placing him or her upon probation.
- "(3) Suspending his or her right to practice for a period not exceeding one year.
- "(4) Revoking his or her license.
- "(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

6. Section 4301 of the Code states:

"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:

....

"(1) 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

1 substances or of a violation of the statutes of this state regulating controlled substances or  
2 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
3 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
4 The board may inquire into the circumstances surrounding the commission of the crime, in order  
5 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
6 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
7 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
8 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
9 of this provision. The board may take action when the time for appeal has elapsed, or the  
10 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
11 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
12 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
13 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
14 indictment.

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

#### 19 CAUSE FOR DISCIPLINE

#### 20 (Conviction of a Crime)

21 8. Respondent is subject to disciplinary action under section 4301, subdivision (l), in  
22 that Respondent has been convicted of substantially related crimes, as follows:

23 A. On or about January 15, 2010, in the case titled *People vs. Tonia Renee*  
24 *Eckhardt-Warden*, Case No. S08CRF0030, Respondent was convicted following a jury trial of  
25 violating Penal Code section 273.5(a), (corporal injury to spouse/cohabitant/former  
26 cohabitant/child's parent), a felony, with the special allegation that Respondent personally used a  
27 deadly and dangerous weapon, to wit, knife, said use not being an element of the offense, within  
28 the meaning of Penal Code section 12022(b)(1) and causing the offense to be a serious felony

1 within the meaning of Penal Code section 1192.7(c)(23). The circumstances of the crime were  
2 that on or about January 25, 2008, Respondent was involved in a physical altercation with her  
3 husband at their home, during which she cut her husband's hand with a knife.

4 B. On or about March 5, 2010, in the case titled *People vs. Tonia Renee Eckhardt-*  
5 *Warden*, Case No. S09CRM1235, Respondent was convicted following her plea of no contest of  
6 violating Vehicle Code section 23103(A) (Reckless Driving), a misdemeanor. The circumstances  
7 of the crime were that on or about July 15, 2009, while on patrol in South Lake Tahoe, a South  
8 Lake Tahoe police officer witnessed Respondent's vehicle speeding, nearly colliding with another  
9 vehicle, and then making an abrupt turn on to the right shoulder of the road, over a curb and onto  
10 the grass in front of a business. When contacted by the officer, Respondent was apparently  
11 unaware of her actions and stated she was having a hard time following the lines.

12 PRAYER

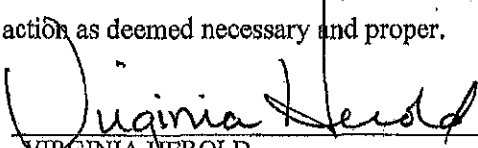
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
14 and that following the hearing, the Board of Pharmacy issue a decision:

15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 54448,  
16 issued to Tonia Renee Eckhardt, aka Tonya Renee Eckhardt-Warden and Tonia Renee Eckhardt-  
17 Bush;

18 2. Ordering Tonia Renee Eckhardt, aka Tonya Renee Eckhardt-Warden and Tonia  
19 Renee Eckhardt-Bush to pay the Board of Pharmacy the reasonable costs of the investigation and  
20 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

22 DATED: 9/23/11

23   
24 VIRGINIA HEROLD  
25 Executive Officer  
26 Board of Pharmacy  
27 Department of Consumer Affairs  
28 State of California  
Complainant

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