"L		
1	·	
2		· .
3		
4		
5		
6	BEFORE THE BOARD OF PHARMACY	
7	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
8		
9	In the Matter of the Accusation Against:	Case No. 4166
10	STEPHANIE NICOLE CARDONI 24164 Falconer Drive	
11	Pharmacy Technician Registration No. TCH	DEFAULT DECISION AND ORDER
12	91993	[Gov. Code, §11520]
13	Respondent.	
14		
15	FINDINGS	OF FACT
16	1. On or about November 11, 2011, Con	nplainant Virginia Herold, in her official
17	capacity as the Executive Officer of the Board of	Pharmacy, Department of Consumer Affairs,
18	filed Accusation No. 4166 against Stephanie Nicc	ole Cardoni (Respondent) before the Board of
19	Pharmacy. (Accusation attached as Exhibit A.)	
20	2. On or about May 4, 2010, the Board of	of Pharmacy (Board) issued Pharmacy
21	Technician Registration No. TCH 91993 to Respo	ondent. The Pharmacy Technician Registration
22	expired on July 31, 2011, and has not been renew	ed, however, under Business and Professions
23	Code section 118(b), the Board's jurisdiction to d	iscipline Respondent is continuing.
24	3. On or about November 17, 2011, Res	pondent was served by Certified and First Class
25	Mail copies of the Accusation No. 4166, and relat	ted documents at Respondent's address of record
26	which, pursuant to Business and Professions Cod	e section 4100, is required to be reported and
27	maintained with the Board, which was and is: 24	164 Falconer Drive, Murrieta, CA 92562.
28	111	
	1	
ļ		DEFAULT DECISION AND ORDER

•

-

Service of the Accusation was effective as a matter of law under the provisions of 4. 1 Government Code section 11505, subdivision (c) and/or Business & Professions Code section 2 124. 3 5 On or about December 29, 2011, the aforementioned documents were returned by the 4 U.S. Postal Service marked "Moved. Left no Address." The address on the documents was the 5 same as the address on file with the Board. Respondent failed to maintain an updated address 6 with the Board and the Board has made attempts to serve the Respondent at the address on file. 7 Respondent has not made herself available for service and therefore, has not availed herself of her 8 right to file a notice of defense and appear at hearing. 9 6. Government Code section 11506 states, in pertinent part: 10 1.1 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts 12 of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion 13 may nevertheless grant a hearing. 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of 14 15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4166. 8. California Government Code section 11520 states, in pertinent part: 16 17 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions 18 or upon other evidence and affidavits may be used as evidence without any notice to respondent. 19 Pursuant to its authority under Government Code section 11520, the Board finds 20 9. Respondent is in default. The Board will take action without further hearing and, based on the 21 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as 22 taking official notice of all the investigatory reports, exhibits and statements contained therein on 23 file at the Board's offices regarding the allegations contained in Accusation No. 4166, finds that 24 the charges and allegations in Accusation No. 4166, are separately and severally, found to be true 25 and correct by clear and convincing evidence. 26 27 /// 28 111 2

DEFAULT DECISION AND ORDER

10. Taking official notice of its own internal records, pursuant to Business and 1 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation 2 and Enforcement is \$735.00 as of February 1, 2012. 3 DETERMINATION OF ISSUES 4 1. Based on the foregoing findings of fact, Respondent Stephanie Nicole Cardoni has 5 subjected her Pharmacy Technician Registration No. TCH 91993 to discipline. 6 2. The agency has jurisdiction to adjudicate this case by default. 7 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician 8 Registration based upon the following violations alleged in the Accusation which are supported 9 by the evidence contained in the Default Decision Evidence Packet in this case .: 10 Respondent has subjected her license to discipline under sections 490 and 4301, 11. 12 subdivision (1) of the Code in that she was convicted of crimes that are substantially related to the qualifications, duties, and functions of a pharmacy technician in that she sustained a conviction 13 for driving under the influence of alcohol, and driving with a blood alcohol content exceeding .08 14 percent on December 23, 2010. 15 Respondent has subjected her license to discipline under sections 490 and 4301, b. 16 subdivision (1) of the Code in that she was convicted of crimes that are substantially related to the 17 qualifications, duties, and functions of a pharmacy technician in that she sustained a second 18 conviction for driving with a blood alcohol level exceeding .08 percent on June 16, 2011. 19 Respondent is subject to disciplinary action under section 4301, subdivision (k) of the 20 c. Code in that on or about December 23, 2010, and June 16, 2011, Respondent has sustained two or 21 22 more alcohol-related criminal convictions. d. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the 23 Code in that on or about October 23, 2010, and March 13, 2011, Respondent used alcoholic 24 beverages in a manner that was dangerous to herself and the public, when she operated a motor 25 vehicle while impaired. 26 111 27 111 28

,	
1	ORDER
2	IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 91993, heretofore
3	issued to Respondent Stephanie Nicole Cardoni, is revoked.
4	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
5	written motion requesting that the Decision be vacated and stating the grounds relied on within
6	seven (7) days after service of the Decision on Respondent. The agency in its discretion may
7	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.
8	This decision shall become effective on June 11, 2012.
9	It is so ORDERED on May 10, 2012.
10	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
11	STATE OF CALIFORNIA
12	La C. Musi
13	By <u>STANLEY C. WEISSER</u>
14	Board President
15	80596470.DOC DOJ Matter ID:SD2011801021
16	Attachment:
17	Exhibit A: Accusation
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	4 DEFAULT DECISION AND ORDER

.

## DEFAULT DECISION AND ORDER

## Exhibit A

Accusation No. 4166

	BOARD OF PHARMACY
	2012 EER O AM 8: 25
1	Attorney General of California
2	LINDA K. SCHNEIDER Supervising Deputy Attorney General
3	SHERRY L. LEDAKIS Deputy Attorney General
4	State Bar No. 131767 110 West "A" Street, Suite 1100
5	San Diego, CA 92101 P.O. Box 85266
6	San Diego, CA 92186-5266 Telephone: (619) 645-2078
7	Facsimile: (619) 645-2061 Attorneys for Complainant
8	Allor neys for Complainant
9	BEFORE THE BOARD OF PHARMACY
10	DEPARTMENT OF CONSUMER AFFAIRS
11	STATE OF CALIFORNIA
12	In the Matter of the Accusation Against: Case No. 4166
13	STEPHANIE NICOLE CARDONI A C C U S A T I O N
14	24164 Falconer Drive Murrieta, CA 92562
15	Pharmacy Technician Registration
16	No. TCH 91993
17	Respondent.
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 May 4, 2010, the Board of Pharmacy issued Pharmacy Technician
23	Registration Number TCH 91993 to Stephanie Nicole Cardoni, also known as Stephanie Nicole
24	White (Respondent). The Pharmacy Technician Registration expired on July 31, 2011, and has
25	not been renewed.
26	
27	111
28	///
	1
	Accusation

	•
1	JURISDICTION
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 (Code) unless otherwise indicated.
5	4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6	suspended or revoked."
7	5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8	surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9	disciplinary action during the period within which the license may be renewed, restored, reissued
10	or reinstated.
11	STATUTORY PROVISIONS
12	6. Section 482 of the Code states:
13	Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:
14 15	(a) Considering the denial of a license by the board under Section 480; or
15	(b) Considering suspension or revocation of a license under Section 490.
17	Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.
18	7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
19	revoke a license on the ground that the licensee has been convicted of a crime substantially
20	related to the qualifications, functions, or duties of the business or profession for which the
21	license was issued.
22	8. Section 493 of the Code states:
23	Notwithstanding any other provision of law, in a proceeding conducted by a
24	board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who
25	holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the
26 27	licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related
28	to the qualifications, functions, and duties of the licensee in question.
	2

Accusation

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

9. 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:

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

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

(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 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.

23 24 25 26 27

111

111

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

27 /// 28 ///

1	REGULATORY PROVISIONS	
2	10. California Code of Regulations, title 16, section 1669 states:	
3	••••	
4	(b) When considering the suspension or revocation of a facility or a personal	
5	license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:	
6	(1) Nature and severity of the act(s) or offense(s).	
7	(2) Total criminal record.	
8	(3) The time that has elapsed since commission of the act(s) or offense(s).	
9 10	(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.	
11	(5) Evidence, if any, of rehabilitation submitted by the licensee.	
12	11. California Code of Regulations, title 16, section 1770 states:	
13	For the purpose of denial, suspension, or revocation of a personal or facility	
14 15	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 are protontial unfitness of a licensee or registrant to perform the	
16	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.	
17	COST RECOVERY	
18	12. Section 125.3 of the Code states, in pertinent part, that the Board may request the	
19	administrative law judge to direct a licentiate found to have committed a violation or violations of	
20	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
21	enforcement of the case.	
22	FIRST CAUSE FOR DISCIPLINE	
23	(December 23, 2010 Criminal Conviction for DUI on October 23, 2010)	
24	13. Respondent has subjected her license to discipline under sections 490 and 4301,	
25	subdivision (l) of the Code in that she was convicted of crimes that are substantially related to the	
26	qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:	
27	a. On or about December 23, 2010, in a criminal proceeding entitled <i>People of the</i>	
28	State of California v. Stephanie Nicole Cardoni, in Riverside County Superior Court, case	
	4	
	Accusation	

number SWM10007905, Respondent was convicted on her plea of guilty to violating Vehicle Code section 23152, subdivision (a), driving under the influence of alcohol; and Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 or higher, misdemeanors.

1

2

3

4

b. As a result of the convictions, on or about December 23, 2010, Respondent was 5 sentenced to 36 months summary probation and ordered to serve 10 days in the custody of the 6 Riverside County Sheriff (in the Electronic Monitoring Program), with credit for two days. 7 Respondent was ordered to enroll in and complete a Drinking Driver program, pay fines, fees, 8 and restitution in the amount of \$2,604.45, and comply with the terms of probation. 9 Respondent's probation was revoked on March 22, 2011, for failure to enroll in the Electronic 10 Monitoring Program, and a bench warrant was issued for Respondent's arrest. At a hearing on 11 April 27, 2011, Respondent's probation was reinstated and she was ordered to re-enroll in the 12 Electronic Monitoring Program and re-enroll in a Second Offender DUI Program (ordered in case 13 number SWM1102452, below). On May 25, 2011, Respondent's probation was revoked for 14 violating Term 1 (obey all laws). 15

The facts that led to the convictions were that in or about the early morning c. 16 hours of October 23, 2010, California Highway Patrol (CHP) officers observed a vehicle, driven 17 by Respondent, commit a series of traffic violations in the city of Temecula before entering 18 Interstate 15. The CHP officers followed Respondent onto the freeway and signaled for 19 Respondent to pull over. Upon making contact with Respondent at the driver's window, the  $20^{-1}$ officer could immediately detect a strong odor of an alcoholic beverage emitting from the interior 21 of the vehicle. Respondent was directed to exit her vehicle move to a level area where the officer 22 23 could conduct his investigation. Respondent told the officer she did not want to do any field 24 sobriety tests. She asked for a blood test and stated she was trying to go home. The officer noted 25 that Respondent had red, watery, bloodshot eyes, slurred speech, and the strong odor of an 26 alcoholic beverage on her breath and person. Respondent refused to perform field sobriety tests. 27 Based on Respondent's objective symptoms of intoxication, Respondent was arrested for driving under the influence of alcohol. 28

1	SECOND CAUSE FOR DISCIPLINE	
2	(June 16, 2011 Criminal Conviction for DUI, Driving on a Suspended License	
3	& Malicious Disturbance on March 13, 2011)	
4	14. Respondent has subjected her license to discipline under sections 490 and 4301,	
5	subdivision (1) of the Code in that she was convicted of crimes that are substantially related to the	
6	qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:	
7	a. On or about June 16, 2011, in a criminal proceeding entitled <i>People of the State</i>	
8	of California v. Stephanie Nicole Cardoni, in Riverside County Superior Court, case number	
9	SWM1102452, Respondent was convicted on her plea of guilty to violating Vehicle Code section	
10	23152, subdivision (b), driving with a BAC of .08 or higher; Vehicle Code section 14601.2,	
11	driving on a license that had been suspended due to a prior DUI conviction; and Penal Code	
12	section 415.2, malicious disturbance, misdemeanors. Respondent admitted and the court found	
13	true the allegations that Respondent had two prior convictions for violating Vehicle Code section	
14	23152, subdivision (b), and two prior convictions for driving on suspended license pursuant to	
15	Vehicle Code sections 14601.1 and 14601.2.	
16	b. As a result of the convictions, on or about June 16, 2011, Respondent was	
17	sentenced to 60 months summary probation, which will expire of June 14, 2016, and she was	
18	ordered to serve 140 days in the custody of the Riverside County Sheriff (in the Electronic	
19	Monitoring Program), with credit for two days. Respondent was ordered to enroll in and	
20	complete a Second Offender DUI program, pay fines, fees, and restitution in the amount of	
21	\$2,824.45, and comply with the terms of probation.	
22	c. The facts that led to the convictions were that in or about the evening of March	
23	13, 2011, deputies from the Riverside County Sheriff's Department made contact with	
24	Respondent outside of a fast food restaurant after she was observed driving erratically. A check	
25	of Respondent's driver's license indicated that it had been suspended for a prior DUI conviction.	
26	Respondent displayed the objective symptoms of alcohol intoxication (alcoholic breath, eyes that	
27	were red, bloodshot, and droopy, and mumbled speech). Respondent submitted to a series of field	
28	sobriety tests which she was unable to perform as explained and demonstrated by the deputy.	
	6	

.

Respondent provided one complete breath sample on the preliminary alcohol screening test which 1 measured with a BAC of .12 percent. Respondent resisted while being placed under arrest and 2 she received a contusion to her right eye. 3 THIRD CAUSE FOR DISCIPLINE Δ (Unprofessional Conduct – Multiple Misdemeanor Convictions Involving Alcohol) 5 Respondent is subject to disciplinary action under section 4301, subdivision (k) of the 15. 6 Code in that on or about December 23, 2010, and June 16, 2011, Respondent was convicted of 7 driving under the influence of alcohol in violation of Vehicle Code section 23152, as detailed in 8 paragraphs 13-14, above. 9 FOURTH CAUSE FOR DISCIPLINE 10 (Unprofessional Conduct – Dangerous Use of Alcohol) 11 Respondent is subject to disciplinary action under section 4301, subdivision (h) of the 16. 12 Code in that on or about October 23, 2010, and March 13, 2011, Respondent used alcoholic 13 beverages in a manner that was dangerous to herself and the public, when she operated a motor 14 vehicle while impaired, as detailed in paragraphs 13-14, above. 15 **DISCIPLINARY CONSIDERATIONS** 16 17. To determine the degree of discipline, if any, to be imposed on Respondent, 17 18 Complainant alleges that on or about March 23, 2007, in San Joaquin County Superior Court, 19 case number LM036626A, Respondent was convicted on her plea of guilty to violating Vehicle 20 Code section 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of .08 or 21 higher. 22 18. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about July 25, 2008, in San Joaquin County Superior Court, case 23 24 number STO48968A, Respondent was convicted on her plea of guilty to violating Vehicle Code section 20002, subdivision (a), hit and run with property damage; and Vehicle Code section 25 14601.2, driving with a license that had been suspended for a prior DUI conviction. 26 27 111 28 111 7

Accusation

1	PRAYER	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
3	and that following the hearing, the Board of Pharmacy issue a decision:	
4	1. Revoking or suspending Pharmacy Technician Registration Number TCH 91993,	
5	issued to Stephanie Nicole Cardoni;	
6	2. Ordering Stephanie Nicole Cardoni to pay the Board of Pharmacy the reasonable	
7	costs of the investigation and enforcement of this case, pursuant to Business and Professions	
8	Code section 125.3;	
9	3. Taking such other and further action as deemed necessary and proper.	
10		
11	June Malu Discission Al	
12	DATED: 1911 VIRGINIA HEROLD	
13	Executive Officer Board of Pharmacy	
14	Department of Consumer Affairs State of California	
15	Complainant	
16	SD2011801021	
17		
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
28		
	8 Accusation	