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

In the Matter of the Accusation Against: **JACOB TYLER DORSTAD** **1401 Alrose Lane** **Redding, CA 96002** **Pharmacy Technician License No. TCH 104943** Respondent.	Case No. 4198 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 5, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4198 against Jacob Tyler Dorstad (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 18, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 104943 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4198 and will expire on August 31, 2012, unless renewed.

3. On or about December 12, 2011, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4198, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board, which was and is: 1401 Alrose Lane, Redding, CA 96002.

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

5. On or about December 16, 2012, the aforementioned documents were returned by the U.S. Postal Service marked "No Forwarding Address." The address on the documents was the same as the address on file with the Board. Respondent failed to maintain an updated address with the Board and the Board has made attempts to serve the Respondent at the address on file. Respondent has not made himself available for service and therefore, has not availed himself of his right to file a notice of defense and appear at hearing.

6. As a courtesy, the Board served the aforementioned documents on January 11, 2012, upon the Respondent at the following address: c/o Shasta County Jail, Inmate Registration #506137, 1655 West Street, Redding, CA 96001.

7. Government Code section 11506 states, in pertinent part:

> (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 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 may nevertheless grant a hearing.

8. Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 4198.

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

> (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 or upon other evidence and affidavits may be used as evidence without any notice to respondent.

10. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on the

relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 4198, finds that the charges and allegations in Accusation No. 4198, are separately and severally, found to be true and correct by clear and convincing evidence.

11. 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 is $1,147.50 as of February 9, 2012.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Jacob Tyler Dorstad has subjected his Pharmacy Technician License No. TCH 104943 to discipline.

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

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

a. Bus. & Prof. Code section 4301(l) – Criminal Conviction

b. Bus. & Prof. Code section 4301 (a) – Gross Immorality

c. Bus. & Prof. Code section 4301(f) – Acts of Moral Turpitude

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ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 104943, heretofore issued to Respondent Jacob Tyler Dorstad, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute. This decision shall become effective on May 4, 2012.

It is so ORDERED on April 4, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE O

By _____
STANLEY C. WEISSER

Board President

default decision_LIC.rtf
DOJ Matter ID:SA2011102846

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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

In the Matter of the Accusation Against: **JACOB TYLER DORSTAD** **1401 Alrose Lane** **Redding, CA 96002** **Pharmacy Technician License No. TCH 104943** Respondent.	Case No. 4198 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about January 18, 2011, the Board of Pharmacy issued Pharmacy Technician License Number TCH 104943 to Jacob Tyler Dorstad (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2012, unless renewed.

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 4300 of the Code states, in pertinent part:

(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.

. . . .

5. Section 4301 of the Code states, in pertinent part:

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:

(a) Gross immorality.

. . . .

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

. . . .

(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.

. . . .

6. Section 4311(c)(4) states:

A conviction of any crime referred to in Section 4301, or for violation of Section 187, 261, or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the qualifications, functions, or duties of a licensee of the board. Upon its own motion or for good cause shown the board may decline to impose a suspension under this subdivision or may set aside a suspension previously imposed when it appears to be in the interest of justice to do so, with due regard to maintaining the integrity of and confidence in the practice of pharmacy and the handling of dangerous drugs and devices.

7. Section 118, subdivision (b), of the Code provides that the expiration 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.

COST RECOVERY

8. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate 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.

FIRST CAUSE FOR DISCIPLINE

(Criminal Conviction)

9. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a licensee, as follows:

10. On or about August 17, 2011, Respondent was convicted following his plea of guilty to two counts of a felony violation of Penal Code section 288(a) (lewd or lascivious acts with a child under the age of fourteen) in *People v. Jacob Tyler Dorstad* (Super. Ct. Shasta County,

2011, Case No. 10-08662). The circumstances of the crime are during the period of October 1, 2009 through March 15, 2010, Respondent committed lewd and lascivious acts upon Jane Doe, a twelve year old child. The lewd and lascivious acts occurred on a nightly basis, and included oral sex and anal sex. Respondent lived in the same residence as Jane Doe at the time, as he was the boyfriend of Jane Doe's brother.

SECOND CAUSE FOR DISCIPLINE

(Gross Immorality)

11. Paragraph 10 is incorporated herein by reference

12. Respondent is subject to disciplinary action under section 4301, subdivision (a) in that Respondent committed acts of gross immorality, as set forth in paragraph 10, above.

THIRD CAUSE FOR DISCIPLINE

(Acts of Moral Turpitude)

13. Paragraph 10 is incorporated herein by reference

14. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that Respondent committed acts of moral turpitude, as set forth in paragraph 10, above.

PRAYER

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

1. Revoking or suspending Pharmacy Technician License Number TCH 104943, issued to Jacob Tyler Dorstad.;

2. Ordering Jacob Tyler Dorstad 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;

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

DATED: 12/5/11

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