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

In the Matter of the Accusation Against:
MARY KEARNS-COCHRAN
1185 Belmont Avenue
Vallejo, CA 94591

Pharmacy Technician License No. 45573

Respondent.

Case No. 4263
OAH No. 2012110771
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 19, 2012, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4263 against Mary Kearns-Cochran (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 7, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician License No. 45573 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4263 and will expire on January 31, 2015, unless renewed.

1 3. On or about August 7, 2012, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 4263, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is: 1185 Belmont Avenue, Vallejo, CA 94591.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about August 13, 2012, Respondent signed and returned a Notice of Defense,
11 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
12 address of record and it informed her that an administrative hearing in this matter was scheduled
13 for June 5, 2013. Respondent failed to appear at that hearing.

14 6. Government Code section 11506 states, in pertinent part:

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

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

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 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. 4263, finds that
the charges and allegations in Accusation No. 4263, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Mary Kearns-Cochran has
3 subjected her Pharmacy Technician License No. 45573 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 License based upon the following violations alleged in the Accusation which are supported by the
7 evidence contained in the Default Decision Evidence Packet in this case:

8 a. Business and Professions Code (Code) section 4301, subdivision (l), as defined by
9 California Code of Regulations, Title 16, section 1770, (conviction).

10 b. Code section 4301, subdivision (l), as defined by California Code of Regulations,
11 Title 16, section 1770, (Conviction).

12 c. Code section 4301, subdivision (f), (commission of acts of moral turpitude).

13 ORDER

14 IT IS SO ORDERED that Pharmacy Technician License No. 45573, heretofore issued to
15 Respondent Mary Kearns-Cochran, is revoked.

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

20 This Decision shall become effective on October 4, 2013.

21 It is so ORDERED ON September 4, 2013.

22 BOARD OF PHARMACY
23 DEPARTMENT OF CONSUMER AFFAIRS
24 STATE OF CALIFORNIA

25 
26 By _____
27 STANLEY C. WEISSER
28 Board President

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default decision_LIC.rtf
DOJ Matter ID:SF2012900695

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 SHANA A. BAGLEY
Deputy Attorney General
4 State Bar No. 169423
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2129
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **MARY KEARNS-COCHRAN**
13 **1185 Belmont Avenue**
Vallejo, CA 94591
14 **Pharmacy Technician License No. 45573**
15 Respondent.

Case No. 4263

A C C U S A T I O N

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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 April 7, 2003, the Board of Pharmacy issued Pharmacy Technician
23 License Number 45573 to Mary Kearns-Cochran (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought in this Accusation
25 and will expire on January 31, 2013, 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 (Code) unless otherwise indicated.

STATUTORY PROVISIONS

4. Code section 490 states, in part:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.

5. Code section 4300 states, in 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 . . .

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6. Code section 4301 states, in part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct Unprofessional conduct shall include, but is not limited to, any of the following:

(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.

(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.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . . [T]he 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 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.

REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility 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 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.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Substantially Related Conviction)**

3 8. Respondent's license is subject to disciplinary action under Code section 4301,
4 subdivision (l), as defined by California Code of Regulations, title 16, section 1770, in that she
5 was convicted of a crime substantially related to the qualifications, functions, and duties of a
6 pharmacist. The circumstances are as follows:

7 9. On or about November 22, 2011, in a criminal matter entitled *The People of the State*
8 *of California v. Mary Kearns-Cochran*, Solano County Superior Court Case No. VCR211615,
9 Respondent was convicted by plea of no contest for violating Vehicle Code section 14601.1,
10 subdivision (a), (Driving with a Suspended License), a misdemeanor. The court sentenced
11 Respondent to serve three days in jail and three years of court probation, and ordered her to
12 comply with other terms and conditions.

13 10. The factual circumstances underlying the 2011 conviction are that on or about July 3,
14 2011, the Solano County Sheriff's Department performed a routine traffic stop on Respondent's
15 car for a missing brake light. Respondent admitted that her driver's license was suspended due to
16 a prior driving under the influence conviction. Respondent was on criminal probation for a
17 Vehicle Code section 23152 conviction (Driving While Intoxicated) with an order not to drive
18 unless licensed. In Respondent's car, one of the arresting officers observed an open can of beer
19 and a second, cold, unopened can of beer. Respondent's Preliminary Alcohol Screening was
20 .023% blood alcohol by volume. Respondent was arrested for violating Vehicle Code section
21 14601.2, subdivision (a), (Driving when Privilege Suspended due to Prior DUI), Penal Code
22 section 23222, subdivision (a), (Possessing an Open Container), and Penal code section 1203.2
23 (Violation of Probation).

24 11. On or about August 28, 2011, Respondent was arrested for violating Vehicle Code
25 section 14601.1, subdivision (a), and Penal Code section 1203.2. In a criminal matter entitled
26 *The People of the State of California v. Mary Kearns-Cochran*, Solano County Superior Court
27 Case No. VCR212242, Respondent was charged with violating Vehicle Code section 14601.2,
28 subdivision (a). On or about November 22, 2011, the charge was dismissed in exchange for

1 Respondent's no contest plea for violating Vehicle Code section 14601.1, subdivision (a), in Case
2 No. VCR211615, as set forth in paragraph 9 above. In assessing the sentence in Case No.
3 VCR211615, the court considered the dismissed charge in Case No. VCR212242.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Substantially Related Conviction)**

6 12. Respondent's license is subject to disciplinary action under Code section 490, in that
7 she was convicted for violating Vehicle Code section 14601.1, subdivision (a), (Driving with a
8 Suspended License). The circumstances are more particularly set forth in paragraphs 9 through
9 11, above.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct: Commission of Acts of Moral Turpitude)**

12 13. Respondent's license is subject to disciplinary action under Code section 4301,
13 subdivision (f), in that she committed an acts involving moral turpitude, dishonesty, fraud, deceit,
14 or corruption. The circumstances are more particularly set forth in paragraphs 9 through 11,
15 above.

16 **DISCIPLINARY CONSIDERATIONS**

17 14. On or about September 10, 2008, in a criminal matter entitled *The People of the State*
18 *of California v. Mary Kearns-Cochran*, Siskiyou County Superior Court Case No. 07019900,
19 Respondent was convicted for violating Vehicle Code sections 23152, subdivision (b), (Driving
20 under the Influence of Alcohol) and 14601.2, misdemeanor offenses that occurred on or about
21 September 3, 2007. Respondent also admitted to a prior conviction on December 6, 2006, for
22 violating Vehicle Code sections 23152.

23 15. To determine the degree of discipline, if any, to be imposed on Respondent,
24 Complainant alleges that on or about September 27, 2010, in a prior action, the Board of
25 Pharmacy issued Citation No. CI 2008 37155 against Respondent. The underlying bases for the
26 citation were the 2008 convictions for violating Vehicle Code sections 23152 and 14601.2. The
27 circumstances of the 2008 convictions are more particularly set forth in paragraph 14, above.

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1 16. On or about October 24, 2000, in a criminal matter entitled *The People of the State of*
2 *California v. Mary Kearns-Cochran*, Napa County Superior Court Case No. M0149422,
3 Respondent was convicted for violating Vehicle Code and 14601.1, subdivision (a), a
4 misdemeanor offense that occurred on or about June 3, 2000. At the time of the arrest on or about
5 June 3, 2000, the Napa County Sheriff's Office arrested Respondent for violating Vehicle Code
6 section 23152, subdivision (a). The Napa County Superior Court dismissed this charge.

7 **PRAYER**

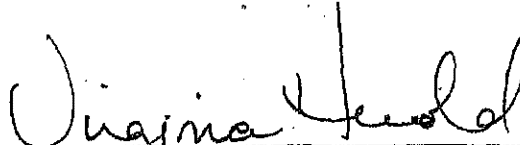
8 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
9 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

10 1. Revoking or suspending Pharmacy Technician Number 45573, issued to Mary
11 Kearns-Cochran;

12 2. Ordering Mary Kearns-Cochran to pay the Board of Pharmacy the reasonable costs of
13 the investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3; and

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

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18 DATED: 7/19/12



VIRGINIA K. HEROLD
Executive Officer
Board of Pharmacy
State of California
Complainant

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21 SF2012900695/ accusation.rtf

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