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8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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11	In the Matter of the Accusation Against:	Case No. 4267	
12		OAH No. 2013030709	
13	SEYED MASOUD EATEZADI	DEFAULT DECISION AND ORDER	
14	18136 Oxnard Street, #43 Tarzana, CA 91356		
15		[Gov. Code, §11520]	
16	Pharmacy Technician Registration No. TCH 102428		
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18	Respondent.		
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21	<u>FINDINGS OF FACT</u>		
22	1. On or about January 7, 2013, Complainant Virginia Herold, in her official capacity as		
23	the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed		
24	Accusation No. 4267 against Seyed Masoud Eatezadi ("Respondent") before the Board of		
25	Pharmacy. (Accusation attached as Exhibit A.)		
26	2. On or about June 3, 2010, the Board of Pharmacy ("Board") issued Pharmacy		
27	Technician Registration No. TCH 102428 to Respondent. The Pharmacy Technician Registration		
28	was in full force and effect at all times relevant to the charges brought in Accusation No. 4267		
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and will expire on July 31, 2013, unless renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

- 3. On or about January 16, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4267, 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. Respondent's address of record was and is: 18136 Oxnard Street, #43, Tarzana, CA 91356.
- 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 February 4, 2013, Respondent signed and returned a Notice of Defense, requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's address of record and it informed him that an administrative hearing in this matter was scheduled for October 3, 2013. Respondent failed to appear at that hearing.
  - 6. 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.
  - 7. 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.
- 8. 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

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file at the Board's offices regarding the allegations contained in Accusation No. 4267, finds that the charges and allegations in Accusation No. 4267, are separately and severally, found to be true 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 is \$3,272.50 as of September 30, 2013.

#### **DETERMINATION OF ISSUES**

- 1. Based on the foregoing findings of fact, Respondent Seyed Masoud Eatezadi has subjected his Pharmacy Technician Registration No. TCH 102428 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 Registration 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. Business and Professions Code sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct in that Respondent was convicted of crimes substantially related to the qualifications, functions, and duties of a registered pharmacy technician to wit, of one felony count of violating Penal Code Section 245(a)(1) [assault with a deadly weapon not firearm] and one felony count of violating Penal Code section 236 [false imprisonment] in the criminal proceeding entitled *The People of the State of California v. Seyed Masoud Eatezadi* (Super. Ct. Los Angeles County, 2010, No. LA066783).
- b. Business and Professions Code section 4301, subdivision (a), on the grounds of unprofessional conduct, in that Respondent committed an act of gross immorality when he attempted to rape T.K. and unlawfully participated in an act of forced oral copulation upon T.K.
- c. Business and Professions Code section under section 4301, subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed an act involving moral turpitude when he attempted to rape T.K. and unlawfully participated in an act of forced oral copulation upon T.K.

**ORDER** IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 102428, heretofore issued to Respondent Seyed Masoud Eatezadi, 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 January 2, 2014. It is so ORDERED ON December 2, 2013. BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA **Board President** 51377408.DOC DOJ Matter ID:LA2012602584 Attachment: Exhibit A: Accusation 

Exhibit A

Accusation

		*	
1	KAMALA D. HARRIS		•
2	Attorney General of California KAREN B. CHAPPELLE	′ 4°	
3	Supervising Deputy Attorney General SYDNEY M. MEHRINGER	•	
<sub>A</sub> .	Deputy Attorney General State Bar No. 245282		
4	300 So. Spring Street, Suite 1702		· · · · · ,
5	Los Angeles, CA 90013 Telephone: (213) 897-2537		
. 6	Facsimile: (213) 897-2804	•	e e e e e e e e e e e e e e e e e e e
7.	Attorneys for Complainant		•
8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
	STATE OF	CALIFORNIA	•
10		7	
11	In the Matter of the Accusation Against:	Case No. 4267	· · · · · · · · · · · · · · · · · · ·
12	SEYED MASOUD EATEZADI		•
13	18136 Oxnard Street, #43 Tarzana, CA 91356	ACCUSATION	1
14	Pharmacy Technician Registration No. TCH		
15	102428		
	Respondent.		
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18	Complainant alleges:		
19	<u>PAR</u>	RTIES	
20	1. Virginia K. Herold ("Complainant") brings this Accusation solely in her official		
21	capacity as the Executive Officer of the Board of Pharmacy.		
22	2. On or about June 3, 2010, the Board	of Pharmacy ("Board") iss	sued Pharmacy
23	Technician Registration No. TCH 102428 to Seyed Masoud Eatezadi ("Respondent"). The		
24	Pharmacy Technician Registration was in full fo	orce and effect at all times r	elevant to the charges
25	brought herein and will expire on July 31, 2013, unless renewed.		
26	JURISDICTION		
27	3. This Accusation is brought before the Board, under the authority of the following		
28	laws. All section references are to the Business	and Professions Code unle	ss otherwise indicated.
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### STATUTORY PROVISIONS

- 4. Section 118, subdivision (b) provides, in pertinent part, 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.
  - 5. Section 490 states, in pertinent 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...."
- 6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
  - 7. Section 4301 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.

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whether the act is a felony or misdemeanor or not.

"(l) The conviction of a crime substantially related to the qualifications, functions, and

corruption, whether the act is committed in the course of relations as a licensee or otherwise, and

The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or

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. "

### REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

"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 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

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perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

#### COST RECOVERY

Section 125.3 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

# (Conviction of a Substantially Related Crime)

- 10.. Respondent is subject to disciplinary action under Code section 4301, subdivision (1), and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician.
- On or about September 28, 2011, after pleading nolo contendere, Respondent was convicted of one felony count of yiolating Penal Code Section 245(a)(1) [assault with a deadly weapon not firearm; great bodily injury likely and one felony count of violating Penal Code section 236 [false imprisonment] in the criminal proceeding entitled The People of the State of California v. Seyed Masoud Eatezadi (Super. Ct. Los Angeles County, 2010, No. LA066783). The Court sentenced Respondent to 120 days in jail, placed Respondent on 3 years probation, ordered Respondent to complete a 52-week sex offender course, and ordered Respondent to complete 90 days of community service.
- The circumstances surrounding the conviction are that on or about December 16, 2010, Respondent drove his victim to a local motel. Upon entering the room, Respondent began performing unwanted sexual acts. Respondent grabbed the victim's neck and kissed her lips. The victim immediately told Respondent to stop, but Respondent became more aggressive, Respondent then pulled off the victim's shirt and shorts. He climbed on top of the victim and attempted multiple times to insert his erect penis into the victim's vagina; however he was unsuccessful due to the victim's movements, Respondent then grabbed the back of the victim's

1	nead and forced his erect penis into the victim's mouth, eventually ejaculating on the victim's		
2	face and breasts.		
3	SECOND CAUSE FOR DISCIPLINE		
4	(Unprofessional Conduct – Gross Immorality)		
5	11. Respondent is subject to disciplinary action under Code section 4301, subdivision (a),		
6.	on the ground of unprofessional conduct, in that Respondent committed an act of gross		
7	immorality. Complainant refers to, and by this reference incorporates, the allegations set forth		
8	above in paragraph 10, subparagraphs (a) and (b), inclusive, as though fully set forth herein.		
9	THIRD CAUSE FOR DISCIPLINE		
10	(Unprofessional Conduct - Act involving Moral Turpitude)		
11	12. Respondent is subject to disciplinary action under Code section under section 4301,		
12	subdivision (f), on the ground of unprofessional conduct, in that Respondent committed an act		
13	involving moral turpitude. Complainant refers to, and by this reference incorporates, the		
14	allegations set forth above in paragraph 10, subparagraphs (a) and (b), inclusive, as though fully		
15	set forth herein.		
16	PRAYER		
17	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
18.	and that following the hearing, the Board issue a decision:		
19	1. Revoking or suspending Pharmacy Technician Registration No. TCH 102428, issued		
20	to Seyed Masoud Eatezadi;		
21	2. Ordering Seyed Masoud Eatezadi to pay the Board the reasonable costs of the		
22	investigation and enforcement of this case, pursuant to section 125.3; and		
23	3. Taking such other and further action as deemed necessary and proper.		
24	1/4/12		
25	DATED: 17/13 VIRGINIA K. HEROLD		
26	Executive Officer Board of Pharmacy		
27	State of California LA2012602584 Complainant		
28	51188225.doc		