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

In the Matter of the Accusation Against:

Case No. 4329

DANIELLE W. JUAREZ-WALKER
9308 Mirandy Drive
Sacramento, CA 95826

DEFAULT DECISION AND ORDER

Pharmacy Technician License No. TCH 109094

[Gov. Code, §11520]

Respondent.

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, filed Accusation No. 4329 against Danielle W. Juarez-Walker (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about December 10, 2010, the Board of Pharmacy issued Pharmacy Technician License No. TCH 109094 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4329 and expired on July 31, 2012. Any lapse in licensure, however, pursuant to Business and Professions Code section 118(b), does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

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1 3. On or about July 26, 2012, Respondent was served by Certified Mail and United
2 States First Class mail with copies of the Accusation No. 4329, Statement to Respondent, Notice
3 of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
5 Professions Code section 4100, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is: 9308 Mirandy Drive, Sacramento, CA 95826.

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. The mailings described in Paragraph 3 above were not returned by the Post Office.
11 No return receipt has been received with respect to the mailing of the aforesaid documents to
12 Respondent by certified mail.

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

14 (c) The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense, and the notice shall be deemed a specific denial of all parts
16 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.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4329.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Board of
24 Pharmacy finds Respondent is in default. The Board will take action without further hearing and,
25 based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet
26 in this matter, as well as taking official notice of all the investigatory reports, exhibits and
27 statements contained therein on file at the Board's offices regarding the allegations contained in
28

1 Accusation No. 4329, finds that the charges and allegations in Accusation No. 4329, are
2 separately and severally, are true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for investigation
5 and enforcement is \$977.50 as of August 16, 2012.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Danielle W. Juarez-Walker has
8 subjected her Pharmacy Technician License No. TCH 109094 to discipline.

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

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

13 a. Violation of Business & Professions Code section 4301(l) by her conviction for
14 violation of 23152(b), a misdemeanor, in *People v. Danielle Juarez-Walker*, Contra Costa
15 Superior Court Case No. 308342-5

16 b. Violation of Business & Professions Code section 4301(f) by fleeing the scene of an
17 automobile collision Respondent caused while driving under the influence of alcohol.

18 c. Violation of Business & Professions Code section 4301(h) by Respondent's use of
19 alcoholic beverages to the extent or in a manner dangerous to herself, to others, or to an extent
20 that her use impairs her ability to conduct with safety to the public the practice authorized by her
21 license.

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ORDER

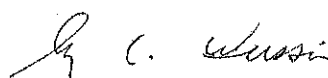
IT IS SO ORDERED that Pharmacy Technician License No. TCH 109094, heretofore issued to Respondent Danielle W. Juarez-Walker, is revoked.

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 October 22, 2012.

It is so ORDERED ON September 21, 2012

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STANLEY C. WEISSER
Board President

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 STERLING A. SMITH
Deputy Attorney General
4 State Bar No. 84287
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4329

12 **DANIELLE W. JUAREZ-WALKER**
13 **9308 Mirandy Drive**
Sacramento, CA 95826

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH**
15 **109094**

16 Respondent.

17
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 December 10, 2010, the Board of Pharmacy issued Pharmacy Technician
23 License No. TCH 109094 to Danielle W. Juarez-Walker (Respondent). The Pharmacy
24 Technician License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on July 31, 2012, unless renewed.///

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JURISDICTION

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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 unless otherwise indicated.

5 4. Section 4300 of the Code states:

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

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

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

12 (3) Suspending his or her right to practice for a period not exceeding one year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the board in its
15 discretion may deem proper.

16 (c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
17 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
18 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
19 may issue the license subject to any terms or conditions not contrary to public policy, including,
20 but not limited to, the following:

21 (1) Medical or psychiatric evaluation.

22 (2) Continuing medical or psychiatric treatment.

23 (3) Restriction of type or circumstances of practice.

24 (4) Continuing participation in a board-approved rehabilitation program.

25 (5) Abstention from the use of alcohol or drugs.

26 (6) Random fluid testing for alcohol or drugs.

27 (7) Compliance with laws and regulations governing the practice of pharmacy.

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1 (d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
2 certificate of licensure for any violation of the terms and conditions of probation. Upon
3 satisfactory completion of probation, the board shall convert the probationary certificate to a
4 regular certificate, free of conditions.

5 (e) The proceedings under this article shall be conducted in accordance with Chapter 5
6 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
7 shall have all the powers granted therein. The action shall be final, except that the propriety of
8 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
9 Civil Procedure."

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

11 "The board shall take action against any holder of a license who is guilty of unprofessional
12 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
13 Unprofessional conduct shall include, but is not limited to, any of the following:

14 ...

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

18 ...

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

24 ...

25 (i) The conviction of a crime substantially related to the qualifications, functions, and duties
26 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

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

14 . . .”.

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

19 7. Section 125.3 of the Code provides, in pertinent part, that the
20 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
21 have committed a violation or violations of the licensing act to pay a sum not to exceed the
22 reasonable costs of the investigation and enforcement of the case.

23 FIRST CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct-Criminal Conviction)

25 8. Respondent is subject to disciplinary action under Code section 4301, subdivision (l),
26 in that on or about February 2, 2012, Respondent was convicted by her plea of no contest to
27 violation of Vehicle Code section 23152(b), a misdemeanor, in *People v. Danielle Juarez-Walker*,
28 Contra Costa County Superior Court Case No. 308342-5. The circumstances were that on or

1 about June 11, 2011, Respondent was driving her 2010 Nissan SUV with a passenger when
2 Respondent was stopped by police who were investigating a hit and run collision involving a
3 motor vehicle matching the description of Respondent's motor vehicle. Peace officers detected a
4 strong odor of alcoholic beverage emanating from Respondent, who was arrested from driving
5 under the influence. Breath tests results for Respondent were .19 and .18. The police investigation
6 showed that shortly before Respondent was arrested, Respondent caused her 2010 Nissan SUV to
7 strike another motor vehicle on the highway, and then fled the scene of the accident by
8 deliberately failing to meet the driver of the other vehicle as Respondent had agreed to do.

9 SECOND CAUSE FOR DISCIPLINE

10 (Unprofessional Conduct-Acts of Moral Turpitude, Dishonesty or Corruption)

11 9. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
12 based upon the acts and omissions set forth in Paragraph 8 above. Respondent's acts of causing
13 her motor vehicle to collide with another motor vehicle, and then fleeing the scene of the accident
14 as alleged, were and are acts of moral turpitude, dishonesty or corruption.

15 THIRD CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct-Use of Alcoholic Beverages)

17 10. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
18 based upon the acts and omissions set forth in Paragraph 8 above. Respondent used alcoholic
19 beverage to the extent or in a manner as to be dangerous herself, or to any other person or to the
20 public, or to the extent that the use impairs the ability of the person to conduct with safety to the
21 public the practice authorized by the license.

22 PRAAYER

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

25 1. Revoking or suspending Pharmacy Technician License Number TCH 109094, issued
26 to Respondent Danielle W. Juarez-Walker;

27 ///

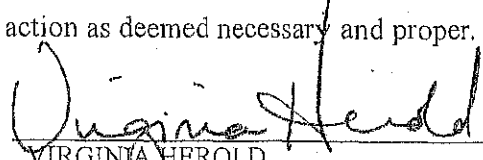
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2. Ordering Respondent Danielle W. Juarez-Walker to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 7/19/12



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

SA2012106447
accusation.rtf