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

In the Matter of the Accusation Against:

MONICA K. DHALIWAL
7771 Garden Park
Chino, CA 91708
Pharmacy Technician Registration No. TCH
95904

Respondent.

Case No. 4348

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 27, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4348 against Monica K. Dhaliwal (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about November 24, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 95904 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4348 and will expire on March 31, 2015, unless renewed.

1 3. On or about April 29, 2014, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 4348, 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: 7771 Garden Park, Chino, CA 91708.

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 May 5, 2014, the "Signed Certified Mail Return Receipt" from the
11 aforementioned documents was returned by the U.S. Postal Service.

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

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4348.

20 8. 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 9. 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. 4348, finds that
the charges and allegations in Accusation No. 4348, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$2,050.00 as of June 25, 2014.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Monica K. Dhaliwal has
6 subjected her Pharmacy Technician Registration No. TCH 95904 to discipline.

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

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

11 a. Respondent is subject to disciplinary action under section 4301, subdivision (l) and
12 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
13 Respondent was convicted of a crime substantially related to the qualifications, functions, and
14 duties of a pharmacy technician.

15 b. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
16 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or
17 corruption with the intent to substantially benefit herself, or substantially injure another.

18 c. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
19 that on or about April 22, 2011, Respondent used alcoholic beverages to an extent or in a manner
20 dangerous or injurious to herself, another person, or the public, when she operated a vehicle while
21 having 0.08 % and more of alcohol in her blood.

22 d. Respondent is subject to disciplinary action under section 4301, subdivision (h) and
23 (j), in that on or about April 25, 2011, Respondent by her own admission used and/or was under
24 the influence of a controlled substance.

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ORDER

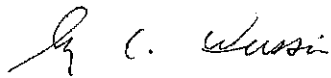
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 95904, heretofore issued to Respondent Monica K. Dhaliwal, is revoked.

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 August 15, 2014.

It is so ORDERED July 16, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

51541999.DOC
DOJ Matter ID:LA2012507130

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Assistant Attorney General
3 MICHELLE MCCARRON
Deputy Attorney General
4 State Bar No. 237031
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2544
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4348

13 **MONICA K. DHALIWAL**

A C C U S A T I O N

14 7771 Garden Park
15 Chino, CA 91708

16 Pharmacy Technician Registration
17 No. TCH 95904

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 November 24, 2009, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 95904 to Monica K. Dhaliwal (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on March 31, 2015, 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 unless otherwise indicated.

1 STATUTORY PROVISIONS

2 4. Section 118, subdivision (b), provides in pertinent part, that the expiration of a license
3 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
4 within which the license may be renewed, restored, reissued or reinstated.

5 5. Section 490 states, in pertinent part:

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

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

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

20 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
21 subject to discipline, including suspension or revocation.

22 7. Section 4301 states, in pertinent part:

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

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

4

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

10

11 "(j) The violation of any of the statutes of this state, or any other state, or of the United
12 States regulating controlled substances and dangerous drugs.

13

14 "(l) The conviction of a crime substantially related to the qualifications, functions, and
15 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
16 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
17 substances or of a violation of the statutes of this state regulating controlled substances or
18 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
19 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
20 The board may inquire into the circumstances surrounding the commission of the crime, in order
21 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
22 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
23 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
24 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
25 of this provision. The board may take action when the time for appeal has elapsed, or the
26 judgment of conviction has been affirmed on appeal or when an order granting probation is made
27 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
28 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
2 indictment."

3 **REGULATORY PROVISIONS**

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

5 "For the purpose of denial, suspension, or revocation of a personal or facility license
6 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
7 crime or act shall be considered substantially related to the qualifications, functions or duties of a
8 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
9 licensee or registrant to perform the functions authorized by his license or registration in a manner
10 consistent with the public health, safety, or welfare."

11 **COST RECOVERY**

12 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
13 law judge to direct a licentiate found to have committed a violation or violations of the licensing
14 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
15 case.

16 10. **CONTROLLED SUBSTANCE**

17 "Marijuana," is a schedule I controlled substance as defined in Health and Safety Code
18 section 11054, subdivision (d)(13) and is categorized a dangerous drug pursuant to section 4022.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Conviction of a Substantially Related Crime)**

21 11. Respondent is subject to disciplinary action under section 4301, subdivision (1) and
22 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
23 Respondent was convicted of a crime substantially related to the qualifications, functions, and
24 duties of a pharmacy technician. On or about July 7, 2011, after pleading nolo contendere,
25 Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152,
26 subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in her blood] in the
27 criminal proceeding entitled *The People of the State of California v. Monica K. Dhaliwal* (Super.
28 Ct. Los Angeles County, 2011, No. 1MP04638). The Court placed Respondent on 36 months

1 probation, with terms and conditions. The circumstances surrounding the conviction are that on
2 or about April 22, 2011, during an investigation by the California Highway Patrol Department,
3 Respondent was contacted. While speaking to Respondent, the officer detected an odor of an
4 alcoholic beverage on her breath. She was observed to have red, watery eyes, and her speech was
5 slurred. During the booking procedure Respondent submitted to breath test that resulted in a
6 breath alcohol content level of 0.12% on the first reading and 0.11% on the second.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Acts Involving Dishonesty, Fraud, or Deceit)**

9 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
10 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or
11 corruption with the intent to substantially benefit herself, or substantially injure another. On or
12 about April 25, 2011, the Culver City Police Department conducted a traffic stop outside the
13 Ramada Hotel where Respondent was contacted. While speaking to the Respondent, the officer
14 smelled an odor of a burnt Marijuana emitting from the vehicle. Respondent admitted to smoking
15 Marijuana and having some in her hotel room. She also indicated to officers that the room was
16 under her name but her boyfriend had paid for it. Her boyfriend also admitted to having smoked
17 Marijuana in the hotel room. The officers conducted a search of Respondent's boyfriend and
18 located \$3,268.00 in cash, six Macy's gift cards, and a piece of paper dated 4/24 with handwritten
19 account numbers and dollar amounts. Respondent granted the officers consent to search the hotel
20 room where they found a "Fargo make to card" printer with several Macy's cards with and
21 without account numbers and bar codes. The printer was connected to a laptop that had bar code
22 on the screen similar to those that Respondent had in his possession. Officers also found
23 \$2340.00 in cash and thirty-seven blank cards bearing no logos. Respondent was subsequently
24 arrested for violating Penal Code section 484I, subdivision (i) [counterfeiting access cards].

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Dangerous Use of Alcohol)**

27 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
28 that on or about April 22, 2011, Respondent used alcoholic beverages to an extent or in a manner

1 dangerous or injurious to herself, another person, or the public, when she operated a vehicle while
2 having 0.08 % and more of alcohol in her blood. Complainant refers to, and by this reference
3 incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Use/Under the Influence of a Controlled Substance)**

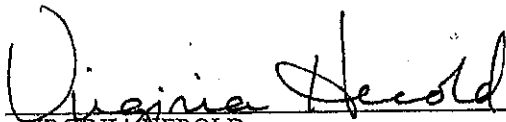
6 14. Respondent is subject to disciplinary action under section 4301, subdivision (h) and
7 (j), in that or on about April 25, 2011, Respondent by her own admission used and/or was under
8 the influence of a controlled substance. Complainant refers to, and by this reference incorporates,
9 the allegations set forth above in paragraph 12, as though set forth in fully.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician Registration No. TCH 95904, issued
14 to Monica K. Dhaliwal
- 15 2. Ordering Monica K. Dhaliwal to pay the Board the reasonable costs of the
16 investigation and enforcement of this case, pursuant to section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

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20 DATED: 3/27/14



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

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