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

In the Matter of the Accusation Against:
CIARA NICOLE OLIVAS
1180 Fair Oaks Avenue
Arroyo Grande, CA 93420
Pharmacy Technician Registration No. TCH
102999

Respondent.

Case No. 4582
OAH No. 2014020240
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about December 19, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4582 against Ciara Nicole Olivás (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about June 3, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 102999 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4582 and will expire on October 31, 2015, unless renewed.
3. On or about January 2, 2014, Respondent was served by Certified and First Class

1 Mail copies of the Accusation No. 4582, Statement to Respondent, Notice of Defense, Request
2 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
3 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
4 section 4100, is required to be reported and maintained with the Board. Respondent's address of
5 record was and is: 1180 Fair Oaks Avenue, Arroyo Grande, CA 93420.

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

9 5. On or about January 29, 2013, Respondent signed and returned a Notice of Defense,
10 requesting a hearing in this matter. A Notice of Hearing was served by mail at Respondent's
11 address of record and it informed her that an administrative hearing in this matter was scheduled
12 for July 14, 2014. Respondent failed to appear at that hearing.

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
17 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
18 may nevertheless grant a hearing.

19 7. 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
23 respondent.

24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 4582, finds that
the charges and allegations in Accusation No. 4582, 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

1 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
2 and Enforcement is \$3,442.50 as of July 9, 2014.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Ciara Nicole Olivas has
5 subjected her Pharmacy Technician Registration No. TCH 102999 to discipline.

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

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

10 a. Respondent is subject to disciplinary action under section 490 and section 4301,
11 subdivision (l) of the Code, in conjunction with California Code of Regulations, title 16, section
12 1770, in that Respondent was convicted of a crime substantially related to the qualifications,
13 functions, or duties of a registered pharmacy technician. Specifically, on or about October 18,
14 2012, Respondent pled nolo contendere to and was convicted of one misdemeanor count of
15 violating Vehicle Code section 23103/23103.5 [reckless driving/plea to lesser charge]. The court
16 indicated that this is an "Alcohol or Drug Related 23103 Conviction." The circumstances
17 surrounding the conviction are that on or about January 18, 2012, a Grover Beach City Police
18 Department Officer conducted a traffic enforcement stop on a vehicle driven by Respondent.
19 Upon making contact with Respondent, the officer observed a four (4) year old child that was
20 unrestrained in the back seat of the vehicle. The officer observed that Respondent had slurred
21 speech, slow and methodical movements, was having difficulty retaining information and
22 following directions. Respondent admitted to taking two (2) 350 mg Lorazepam pills and two (2)
23 0.5 mg Somas pills. The officer recovered two (2) prescription bottles from Respondent.

24 b. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the
25 Code, on the grounds of unprofessional conduct, in that Respondent administered to herself
26 controlled substances and dangerous drugs to an extent and in a manner dangerous or injurious to
27 herself, others and the public.

28 c. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the

1 Code, on the grounds of unprofessional conduct, in that Respondent violated provisions of
2 Pharmacy Law. The violations are described in more particularity in paragraphs 12 through 15
3 above, inclusive and hereby incorporated by reference.

4 **ORDER**

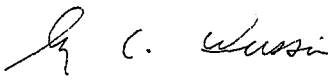
5 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 102999, heretofore
6 issued to Respondent Ciara Nicole Olivas, is revoked.

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

11 This Decision shall become effective on September 10, 2014.

12 It is so ORDERED August 11, 2014.

13 BOARD OF PHARMACY
14 DEPARTMENT OF CONSUMER AFFAIRS
15 STATE OF CALIFORNIA

16 By 
17 _____
18 STAN C. WEISSER
19 Board President

20 51555972.DOC
21 DOJ Matter ID:LA2013508827

22 Attachment:
23 Exhibit A: Accusation
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26
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28

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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:

Case No. 4582

12 **CIARA NICOLE OLIVAS**

13 1180 Fair Oaks Avenue
14 Arroyo Grande, CA 93420

15 Pharmacy Technician Registration No. TCH
102999

16 Respondent.

A C C U S A T I O N

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 ("Board").

22 2. On or about June 03, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 102999 to Ciara Nicole Olivas ("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 October 31, 2013, unless renewed.

26 **JURISDICTION AND STATUTORY PROVISIONS**

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 ("Code"), unless otherwise

1 indicated.

2 4. Section 4300, subdivision (a) of the Code, states that "[e]very license issued may be
3 suspended or revoked."

4 5. Section 118, subdivision (b) of the Code, states that the suspension, expiration,
5 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
6 disciplinary action during the period within which the license may be renewed, restored, reissued
7 or reinstated.

8 6. Section 490 of the Code states, in pertinent part:

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

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

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

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

27 "The board shall take action against any holder of a license who is guilty
28 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:

29 ...
30 (h) The administering to oneself, of any controlled substance, or the use
31 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
32 dangerous or injurious to oneself, to a person holding a license under this chapter, or
33 to any other person or to the public, or to the extent that the use impairs the ability of
34 the person to conduct with safety to the public the practice authorized by the license.

35 ...
36 (i) The conviction of a crime substantially related to the qualifications,
37 functions, and duties of a licensee under this chapter. The record of conviction of a
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1 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
2 States Code regulating controlled substances or of a violation of the statutes of this
3 state regulating controlled substances or dangerous drugs shall be conclusive
4 evidence of unprofessional conduct. In all other cases, the record of conviction shall
5 be conclusive evidence only of the fact that the conviction occurred. The board may
6 inquire into the circumstances surrounding the commission of the crime, in order to
7 fix the degree of discipline or, in the case of a conviction not involving controlled
8 substances or dangerous drugs, to determine if the conviction is of an offense
9 substantially related to the qualifications, functions, and duties of a licensee under this
10 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
11 contendere is deemed to be a conviction within the meaning of this provision. The
12 board may take action when the time for appeal has elapsed, or the judgment of
13 conviction has been affirmed on appeal or when an order granting probation is made
14 suspending the imposition of sentence, irrespective of a subsequent order under
15 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
16 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
17 dismissing the accusation, information, or indictment.

18 ...
19 (o) Violating or attempting to violate, directly or indirectly, or assisting
20 in or abetting the violation of or conspiring to violate any provision or term of this
21 chapter or of the applicable federal and state laws and regulations governing
22 pharmacy, including regulations established by the board or by any other state or
23 federal regulatory agency."

24 REGULATORY PROVISION

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

26 "For the purpose of denial, suspension, or revocation of a personal or
27 facility license pursuant to Division 1.5 (commencing with Section 475) of the
28 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."

29 DRUG DEFINITIONS

30 9. Lorazepam (Ativan) is a Schedule IV controlled substance as defined by section
31 11057(d)(16) of the Health and Safety Code and is a dangerous drug pursuant to Business and
32 Professions Code section 4022.

33 10. Soma is a trade name for carisoprodol tablets; carisoprodol is a muscle-relaxant and
34 sedative. Soma is a Schedule IV controlled substance as defined by section 11057 of the Health
35 and Safety Code and is a dangerous drug pursuant to Business and Professions Code section
36 4022.

37 ///

1 COST RECOVERY

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 FIRST CAUSE FOR DISCIPLINE

9 (Conviction of a Substantially Related Crime)

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

14 13. On or about October 18, 2012, Respondent pled nolo contendere to and was
15 convicted of one misdemeanor count of violating Vehicle Code section 23103/23103.5 [reckless
16 driving/plea to lesser charge] in the criminal proceeding entitled *The People of the State of*
17 *California v. Ciara Nicole Olivas* (Super. Ct. San Luis Obispo County, 2012, No. M000469639).
18 The court indicated that this is an "Alcohol or Drug Related 23103 Conviction." The court placed
19 Respondent on probation for eighteen (18) months, with terms and conditions. The circumstances
20 surrounding the conviction are, as follows:

21 14. On or about January 18, 2012, a Grover Beach City Police Department Officer
22 conducted a traffic enforcement stop on a vehicle driven by Respondent. Upon making contact
23 with Respondent, the officer observed a four (4) year old child that was unrestrained in the back
24 seat of the vehicle. The officer observed that Respondent had slurred speech, slow and
25 methodical movements, was having difficulty retaining information and following directions.
26 Respondent admitted to taking two (2) 350 mg Lorazepam pills and two (2) 0.5 mg Somas pills.
27 The officer recovered two (2) prescription bottles from Respondent.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dangerous Use of Alcohol and / or Drugs)

15. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the Code, on the grounds of unprofessional conduct, in that Respondent administered to herself controlled substances and dangerous drugs to an extent and in a manner dangerous or injurious to herself, others and the public. The circumstances are described in more particularity in paragraph 14, above, inclusive and hereby incorporated by reference.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Violation of Pharmacy Act Statutes and Regulations)

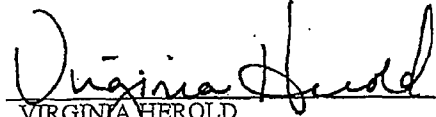
16. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the Code, on the grounds of unprofessional conduct, in that Respondent violated provisions of Pharmacy Law. The violations are described in more particularity in paragraphs 12 through 15 above, inclusive and hereby incorporated by reference.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 102999, issued to Ciara Nicole Olivas;
2. Ordering Ciara Nicole Olivas to pay the Board 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: 12/19/13


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

LA2013508827