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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. 4703

**EDWIN M. RICH
2268 San Carols Drive
Pomona, CA 91767-2656**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

**Pharmacy Technician Registration
No. TCH 4902**

Respondent.

FINDINGS OF FACT

1. On or about October 31, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4703 against Edwin M. Rich (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as Exhibit A.)

2. On or about February 18, 1993, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 4902 to Respondent. The Pharmacy Technician Registration expired on October 31, 2012, and has not been renewed. Section 4300.1 of the Business and Professions Code provides, in pertinent part, that the expiration or cancellation of a license shall not deprive the Board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

1 3. On or about November 5, 2013, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4703, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100 and California Code of Regulations, title 16, section 1704, is required to be reported
6 and maintained with the Board. Respondent's address of record was and is:

7 2268 San Carols Drive
8 Pomona, CA 91767-2656

9 Respondent was also served with the aforementioned documents at his alternate address which is:
10 California Correctional Institution, P.O. Box 1031, Tehachapi, CA 93581.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. On or about November 7, 2013, the aforementioned documents served to
15 Respondent's address of record via Certified Mail were signed for and received by "Angie Rich."
16 On or about November 8, 2013, the aforementioned documents served to Respondent's alternate
17 address via Certified Mail were signed for acknowledging receipt.

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

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

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 4703.

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

28 (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.

1 9. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in Accusation No. 4703, finds that
6 the charges and allegations in Accusation No. 4703, are separately and severally, found to be true
7 and correct by clear and convincing evidence.

8 10. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$492.50 as of December 5, 2013.

11 **DETERMINATION OF ISSUES**

12 1. Based on the foregoing findings of fact, Respondent Edwin M. Rich has subjected his
13 Pharmacy Technician Registration No. TCH 4902 to discipline.

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

15 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
16 Registration based upon the following violations alleged in the Accusation which are supported
17 by the Default Decision Investigatory Evidence Packet in this case.

18 a. Respondent has subjected his registration to discipline under sections 490 and
19 4301, subdivision (l) of the Code in that on or about April 18, 2013, in a criminal proceeding
20 entitled *People of the State of California v. Edwin Monty Rich*, in Los Angeles County Superior
21 Court, case number KA096686, Respondent was convicted on his plea of no contest to violating
22 two separate counts of Penal Code section 288.5, subdivision (a), continuous sexual abuse of a
23 child under 14 years of age, a felony, a crime that is substantially related to the qualifications,
24 duties, and functions of a pharmacy technician.

25 b. Respondent has subjected his registration to discipline under section and 4301,
26 subdivisions (a) and (f) of the Code in that his continuous sexual abuse of two children over the
27 course of ten years demonstrates conduct involving gross immorality, moral turpitude, and
28 corruption.

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ORDER

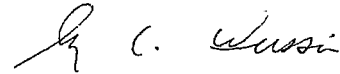
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 4902, heretofore issued to Respondent Edwin M. Rich, is revoked.

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 February 24, 2014.

It is so ORDERED ON January 24, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STAN C. WEISSER
Board President

DOJ Matter ID: SD2013705601

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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2 LINDA K. SCHNEIDER
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3 State Bar No. 101336
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 4703

13 **EDWIN M. RICH**
2268 San Carols Drive
14 Pomona, CA 91767-2656

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 4902**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about February 18, 1993, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 4902 to Edwin M. Rich (Respondent). Respondent is also known as
25 Edwin Monty Rich. The Pharmacy Technician Registration expired on October 31, 2012, and
26 has not been renewed.

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JURISDICTION

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 (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a
10 license on a retired status, or the voluntary surrender of a license by a licensee shall not
11 deprive the board of jurisdiction to commence or proceed with any investigation of, or
12 action or disciplinary proceeding against, the licensee or to render a decision suspending
13 or revoking the license.

12

STATUTORY PROVISIONS

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to evaluate the
15 rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
- 17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
21 revoke a license on the ground that the licensee has been convicted of a crime substantially
22 related to the qualifications, functions, or duties of the business or profession for which the
23 license was issued.

24 8. Section 493 of the Code states:

25 Notwithstanding any other provision of law, in a proceeding conducted by a board
26 within the department pursuant to law to deny an application for a license or to suspend
27 or revoke a license or otherwise take disciplinary action against a person who holds a
28 license, upon the ground that the applicant or the licensee has been convicted of a crime
substantially related to the qualifications, functions, and duties of the licensee in
question, the record of conviction of the crime shall be conclusive evidence of the fact
that the conviction occurred, but only of that fact, and the board may inquire into the
circumstances surrounding the commission of the crime in order to fix the degree of

1 discipline or to determine if the conviction is substantially related to the qualifications,
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority," and
4 "registration."

5 9. Section 4301 of the Code states:

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

10 (a) Gross immorality.

11

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

15

16 (l) The conviction of a crime substantially related to the qualifications, functions,
17 and duties of a licensee under this chapter. The record of conviction of a violation of
18 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
19 regulating controlled substances or of a violation of the statutes of this state regulating
20 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
21 conduct. In all other cases, the record of conviction shall be conclusive evidence only of
22 the fact that the conviction occurred. The board may inquire into the circumstances
23 surrounding the commission of the crime, in order to fix the degree of discipline or, in
24 the case of a conviction not involving controlled substances or dangerous drugs, to
25 determine if the conviction is of an offense substantially related to the qualifications,
26 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a
27 conviction following a plea of nolo contendere is deemed to be a conviction within the
28 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

10. California Code of Regulations, title 16, section 1769, states:

. . . .

(b) When considering the suspension or revocation of a facility or a personal
License on the ground that the licensee or the registrant has been convicted of a crime,
the board, in evaluating the rehabilitation of such person and his present eligibility for a
license will consider the following criteria:

- 1 (1) Nature and severity of the act(s) or offense(s).
- 2 (2) Total criminal record.
- 3 (3) The time that has elapsed since commission of the act(s) or offense(s).
- 4 (4) Whether the licensee has complied with all terms of parole, probation,
5 restitution or any other sanctions lawfully imposed against the licensee.
- 6 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

12 **COSTS**

13 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
17 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
18 may be included in a stipulated settlement.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(April 18, 2013 Criminal Conviction for Continuous Sexual Abuse of a Child)**

21 13. Respondent has subjected his registration to discipline under sections 490 and 4301,
22 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the
23 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

- 24 a. On or about April 18, 2013, in a criminal proceeding entitled *People of the*
25 *State of California v. Edwin Monty Rich*, in Los Angeles County Superior Court, case number
26 KA096686, Respondent was convicted on his plea of no contest to violating two separate counts
27 of Penal Code section 288.5, subdivision (a), continuous sexual abuse of a child under 14 years of
28 age, a felony. In exchange for the plea, the court dismissed two counts of violating Penal Code

1 section 288, subdivision (c)(1), oral copulation of a person under 14, and two counts of violating
2 Penal Code section 288, subdivision (a), lewd act upon a child.

3 b. As a result of the convictions, on or about April 18, 2013, Respondent was
4 sentenced to serve the upper term of 16 years in state prison on the primary count (Count 1), and
5 the lower term of six years on Count 3, to be served consecutively, for a total term of 22 years.
6 Respondent received credit for 522 days. Respondent was required to register as a convicted sex
7 offender.

8 c. The facts that led to the convictions are that on or about August 24, 2011, two
9 women reported to the Pomona Police Department that between 1988 and 1998, while the two
10 were children, they lived under the guardianship of Respondent and his wife after their mother
11 was found unfit to care for them. Over a period of several years, beginning when they were two
12 and four years old, Respondent began sexually assaulting them. The sexual assaults continued
13 approximately four times per week for a period of ten years. The victims were removed from the
14 care of Respondent and his wife in 1998, when they were 12 and 14 years old. Based on the
15 statements made by the victims, the police department opened an investigation. One of the
16 victims made a pretext telephone call to Respondent wherein he admitted to molesting her when
17 she was a child.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Commission of Acts Involving Gross Immorality, Moral Turpitude, and Corruption)**

20 14. Respondent has subjected his registration to discipline under section and 4301,
21 subdivisions (a) and (f) of the Code in that his continuous sexual abuse of two children over the
22 course of ten years, as described in paragraph 13, above, demonstrates conduct involving gross
23 immorality, moral turpitude, and corruption.

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PRAYER

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

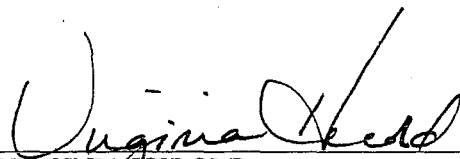
1. Revoking or suspending Pharmacy Technician Registration Number TCH 4902, issued to Edwin M. Rich;

2. Ordering Edwin M. Rich 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;

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

DATED:

10/31/13



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

SD2013705601