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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. 4713

13 **ELIZABETH ANN RHOADS**  
14 **1156 Susan Way**  
15 **Sunnyvale, CA 94087**

**DEFAULT DECISION AND ORDER**

16 **Pharmacy Technician Registration**  
17 **No. TCH 11461**

[Gov. Code, §11520]

18 Respondent.

19 FINDINGS OF FACT

20 1. On or about August 14, 2003, Complainant Virginia Herold, in her official capacity  
21 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs,  
22 filed Accusation No. 4713 against Elizabeth Ann Rhoads (Respondent) before the Board of  
23 Pharmacy. (Accusation attached as Exhibit A.)

24 2. On or about January 19, 1994, the Board issued Pharmacy Technician Registration  
25 No. TCH 11461 to Respondent. The Pharmacy Technician Registration was in full force and  
26 effect at all times relevant to the charges brought in Accusation No. 4713 and will expire on April  
27 30, 2015, unless renewed.

28 3. On or about October 4, 2013, Respondent was served by Certified and First Class  
Mail copies of the Accusation No. 4713, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
4 record was and is: 1156 Susan Way, Sunnyvale, CA 94087.

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

8 5. Government Code section 11506 states, in pertinent part:

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
15 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4713.

16 7. California Government Code section 11520 states, in pertinent part:

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

21 8. Pursuant to its authority under Government Code section 11520, the Board finds  
22 Respondent is in default. The Board will take action without further hearing and, based on the  
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
25 file at the Board's offices regarding the allegations contained in Accusation No. 4713, finds that  
26 the charges and allegations in Accusation No. 4713, are separately and severally, found to be true  
27 and correct by clear and convincing evidence.

28 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 \$1,115.00 as of September 2, 2014.

///

1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Elizabeth Ann Rhoads has  
3 subjected her Pharmacy Technician Registration No. TCH 11461 to discipline.

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

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

8 a. Business and Professions Code section 4301(l) (conviction of a substantially related  
9 crime);

10 b. Business and Professions Code section 4301(h) (dangerous/injurious/unsafe use of  
11 alcohol).

12 ORDER

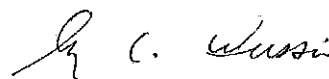
13 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 11461, heretofore  
14 issued to Respondent Elizabeth Ann Rhoads, is revoked.

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

19 This Decision shall become effective on November 3, 2014.

20 It is so ORDERED October 3, 2014.

21 BOARD OF PHARMACY  
22 DEPARTMENT OF CONSUMER AFFAIRS  
23 STATE OF CALIFORNIA

24 By 

25 STAN C. WEISSER  
26 Board President

26 41065968.DOC  
27 DOJ Matter ID:SF2013405048

27 Attachment: Exhibit A (Accusation)

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
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Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
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5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5548  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

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

10  
11 In the Matter of the Accusation Against:  
12 **ELIZABETH ANN RHOADS**  
1156 Susan Way  
13 Sunnyvale, CA 94087  
14 **Pharmacy Technician Registration No. TCH 11461**  
15 Respondent.

Case No. 4713  
**ACCUSATION**

16  
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
20 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.  
21 2. On or about January 19, 1994, the Board issued Pharmacy Technician Registration  
22 Number TCH 11461 to Elizabeth Ann Rhoads (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on April 30, 2015, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
28 indicated.

1           4.     Code section 4011 provides that the Board shall administer and enforce both the  
2 Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act  
3 [Health & Safety Code, § 11000 et seq.].

4           5.     Code section 4300(a) provides that every license issued by the Board may be  
5 suspended or revoked.

6           6.     Code section 4300.1 provides that the expiration, cancellation, forfeiture, or  
7 suspension of a Board-issued license, the placement of a license on a retired status, or the  
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to  
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
10 licensee or to render a decision suspending or revoking the license.

11                                   STATUTORY AND REGULATORY PROVISIONS

12           7.     Code section 4301 provides, in pertinent part, that the Board shall take action against  
13 any holder of a license who is guilty of “unprofessional conduct,” defined to include, but not be  
14 limited to, any of the following:

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

20                                   ...

21                                 (i) The conviction of a crime substantially related to the qualifications,  
22 functions, and duties of a licensee under this chapter. The record of conviction of a  
23 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
24 States Code regulating controlled substances or of a violation of the statutes of this  
25 state regulating controlled substances or dangerous drugs shall be conclusive  
26 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
27 be conclusive evidence only of the fact that the conviction occurred. The board may  
28 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.

1  
2 8. California Code of Regulations, title 16, section 1770, provides in pertinent part that,  
3 for the purpose of denial, suspension, or revocation of a personal or facility license, a crime or act  
4 shall be considered substantially related to the qualifications, functions or duties of a licensee or  
5 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or  
6 registrant to perform the functions authorized by her license or registration in a manner consistent  
7 with the public health, safety, or welfare.

8 COST RECOVERY

9 9. Code section 125.3 provides, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licentiate found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

13 FIRST CAUSE FOR DISCIPLINE

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

15 10. Respondent is subject to discipline under Code section 4301, subdivision (l), for  
16 unprofessional conduct in that she was convicted of a crime substantially related to the  
17 qualifications, functions and duties of a pharmacy technician, as follows:

18 11. On or about December 10, 2012, in Santa Clara County Superior Court, case number  
19 B1260529, Respondent was convicted of having violated Penal Code section 273a, subdivision  
20 (b) (child endangerment/infliction of unjustifiable pain and suffering). Respondent was sentenced  
21 to serve 30 days in jail, placed on 4 years of formal probation, and ordered to complete a 32-week  
22 parenting program, submit to 90 days of SCRAM (secure continuous remote alcohol monitoring),  
23 refrain from corporal punishment of her children, and relinquish her handgun for destruction,  
24 among other conditions of probation. The conviction arose from Respondent's arrest at her  
25 children's school after they reported to a Santa Clara County Sheriff's Deputy and a Department  
26 of Family and Children's Services social worker numerous episodes of physical and emotional  
27 abuse by Respondent exacerbated by her use or abuse of alcohol. Respondent admitted that her  
28 alcoholism drives her to act violently.

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**SECOND CAUSE FOR DISCIPLINE**

**(Dangerous/Injurious/Unsafe Use of Alcohol)**

12. Respondent is subject to disciplinary action under Code section 4301, subdivision (h), for unprofessional conduct in that she used alcoholic beverages in a manner dangerous or injurious to herself or others, and/or to the extent that such use impaired her ability to safely practice as a pharmacy technician, as described in paragraph 11, above.

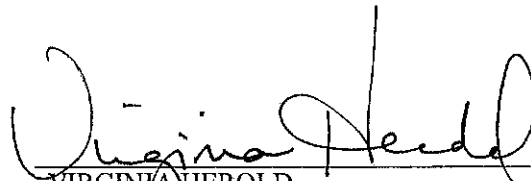
**PRAYER**

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 11461 issued to Elizabeth Ann Rhoads;
2. Ordering Elizabeth Ann Rhoads 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: \_\_\_\_\_

8/14/13



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

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