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

In the Matter of the Accusation Against:  
**KENNETH A. BOBIER**  
1173 Belcrest Drive  
Redding, CA 96003  
**Pharmacy Technician Registration No. TCH  
121402**  
  
Respondent.

Case No. 4714

**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about November 4, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4714 against Kenneth A. Bobier (“Respondent”) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about February 24, 2012, the Board of Pharmacy (“Board”) issued Pharmacy Technician Registration No. TCH 121402 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4714 and expired on December 31, 2013. This lapse in licensure, however, pursuant to Business and

1 Professions Code section 4300.1, does not deprive the Board of its authority to institute or  
2 continue this disciplinary proceeding.

3 3. On or about November 25, 2013, Respondent was served by Certified and First Class  
4 Mail copies of the Accusation No. 4714, Statement to Respondent, Notice of Defense, Request  
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
6 11507.7) and proof of service at Respondent's address of record which, pursuant to Business and  
7 Professions Code section 4100, is required to be reported and maintained with the Board.

8 Respondent's address of record was and is:

9 1173 Belcrest Drive  
10 Redding, CA 96003.

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. No documents were returned by the U.S. Postal Service marked as undeliverable.

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

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

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
23 4714.

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

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

9 Pursuant to its authority under Government Code section 11520, the Board finds  
Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
2 file at the Board's offices regarding the allegations contained in Accusation No. 4714, finds that  
3 the charges and allegations in Accusation No. 4714, are separately and severally, found to be true  
4 and correct by clear and convincing evidence.

5 10. Taking official notice of its own internal records, pursuant to Business and  
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
7 and Enforcement is \$1,785 as of January 15, 2014.

### 8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent Kenneth A. Bobier has subjected  
10 his Pharmacy Technician Registration No. TCH 121402 to discipline.

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

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

15 a. Respondent is subject to disciplinary action under Code section 4301,  
16 subdivision (J) in that on or about May 10, 2013, in the matter of People v. Kenneth Aurthur  
17 Bobier (Super. Ct. Shasta County Case No. 130002249), Respondent was convicted on his plea of  
18 guilty of violating Health and Safety Code section 11550, subdivision (a) (Under the Influence of  
19 a Controlled Substance), a misdemeanor. The circumstances were that on or about April 26,  
20 2012, around 7 p.m., Respondent was driving home from a friend's house and crashed his truck  
21 into a telephone pole about one mile away from Respondent's house. Respondent admitted to the  
22 police officers who responded to the accident that he had taken approximately four milligrams of  
23 Xanax at 12:00 a.m. on April 26, 2012, and approximately one hundred milligrams of methadone  
24 at 8:30 a.m. on April 26, 2012, before heading to his friend's house. In addition, due to low  
25 levels of testosterone Respondent was using testosterone cream, which makes him drowsy.  
26 Respondent submitted to a chemical test, which returned a positive result for Benzodiazepines,  
27 Methamphetamine, and Opiates. Respondent provided a copy of his proof of prescription for  
28 Hydrocodone, Hydromorpone, Methadone, and Alprazolam. He also explained in an email that

1 he does not have a job and is 100% disabled by the Veteran Affairs for post-traumatic stress  
2 disorder.

3 b. Respondent is subject to disciplinary action under Code section 4301,  
4 subdivision (h) in that on or about April 26, 2012, Respondent administered to himself controlled  
5 substances in a manner dangerous or injurious to himself or others when he operated a vehicle  
6 while under the influence of controlled substances, as more particularly set forth above in  
7 paragraph 3, subpart a.

8 c. Respondent is subject to disciplinary action under Code section 4301,  
9 subdivision (j), on the grounds of unprofessional conduct, in that on or about April 26, 2012,  
10 Respondent violated statutes regulating controlled substances and dangerous drugs, as more fully  
11 set forth above in paragraph 3, subparts a and b, and Health and Safety Code section 11550,  
12 subdivision (a), which provides that no person shall use, or be under the influence of any  
13 controlled substance except when administered by or under the direction of a person licensed by  
14 the state to dispense, prescribe, or administer controlled substances, To Wit: Methamphetamine.

15 d. Respondent is subject to disciplinary action under Code sections 4306 and  
16 4301, subdivision (o), on the grounds of unprofessional conduct, in that on or about April 26,  
17 2012, Respondent violated the laws and regulations governing pharmacy, as set forth above in  
18 paragraph 3, subparts a through c.

19 **ORDER**

20 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 121402, heretofore  
21 issued to Respondent Kenneth A. Bobier, is revoked.

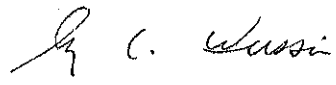
22 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
23 written motion requesting that the Decision be vacated and stating the grounds relied on within  
24 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
25 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.  
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This Decision shall become effective on March 27, 2014.

It is so ORDERED ON February 25, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STAN C. WEISSER  
Board President

11255837.DOC  
DOJ Matter ID:SA2013111752

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation No. 4714

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STEPHANIE ALAMO-LATIF  
Deputy Attorney General  
4 State Bar No. 283580  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 327-6819  
Facsimile: (916) 327-8643  
7 E-mail: Stephanie.AlamoLatif@doj.ca.gov  
*Attorneys for Complainant*  
8

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

12 In the Matter of the Accusation Against:

Case No. 4714

13 **KENNETH AURTHUR BOBIER**  
1173 Belcrest Drive  
14 Redding, CA 96003

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
**121402**  
16

17 Respondent.  
18

19 Virginia Herold ("Complainant") alleges:

20 **PARTIES**

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

23 2. On or about February 24, 2012, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 121402 to Kenneth Aurthur Bobier ("Respondent"). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on December 31, 2013, unless renewed.

27 ///

28 ///

1 **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 unless otherwise indicated.

5 4. Code section 4300 states, in pertinent part, that every license issued may be suspended  
6 or revoked.

7 5. Code section 4300.1 states, in pertinent part, that the expiration, cancellation,  
8 forfeiture, or suspension of a board-issued license by operation of law or by order or decision of  
9 the board or a court of law, not deprive the board of jurisdiction to commence or proceed with any  
10 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision  
11 suspending or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Code section 4301 states, in pertinent part, that the board shall take action against any  
14 holder of a license who is guilty of unprofessional conduct. Unprofessional conduct shall include,  
15 but is not limited to, any of the following:

16 ...

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

22 ...

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

25 ...

26 "(l) The conviction of a crime substantially related to the qualifications, functions and duties  
27 of a licensee under this chapter.

28 ...



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

5 ...

6 7. Health and Safety Code section 11550, subdivision (a), provides in pertinent part, that  
7 no person shall use, or be under the influence of any controlled substance except when  
8 administered by or under the direction of a person licensed by the state to dispense, prescribe, or  
9 administer controlled substances.

10 **COST RECOVERY**

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

16 **DRUGS**

17 9. Methadone, or "Methadone Hydrochloride," is a Schedule II controlled substance as  
18 designated by Health and Safety Code section 11055, subdivision (c)(14) and a dangerous drug  
19 pursuant to Code section 4022.

20 10. "Xanax," a brand of alprazolam, is a Schedule IV controlled substance as designated  
21 by Health and Safety Code section 11057, subdivision (d)(1) and a dangerous drug pursuant to  
22 Code section 4022.

23 11. "Methamphetamine" is a Schedule II controlled substance as designated by Health and  
24 Safety Code section 11055, subdivision (d)(2).

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(Conviction of Crime)**

27 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (l)  
28 in that on or about May 10, 2013, in the matter of *People v. Kenneth-Aurthur Bobier* (Super. Ct.

1 Shasta County Case No. 130002249), Respondent was convicted on his plea of guilty of violating  
2 Health and Safety Code section 11550, subdivision (a) (Under the Influence of a Controlled  
3 Substance), a misdemeanor. The circumstances are as follows:

4 a. On or about April 26, 2012, around 7 p.m., Respondent was driving home from  
5 a friend's house and crashed his truck into a telephone pole about one mile away from  
6 Respondent's house. Respondent admitted to the police officers who responded to the accident  
7 that he had taken approximately four milligrams of Xanax at 12:00 a.m. on April 26, 2012, and  
8 approximately one hundred milligrams of methadone at 8:30 a.m. on April 26, 2012, before  
9 heading to his friend's house. In addition, due to low levels of testosterone Respondent was using  
10 testosterone cream, which makes him drowsy. Respondent submitted to a chemical test, which  
11 returned a positive result for Benzodiazepines, Methamphetamine, and Opiates. Respondent  
12 provided a copy of his proof of prescription for Hydrocodone, Hydroinorphone, Methadone, and  
13 Alprazolam. He also explained in an email that he does not have a job and is 100% disabled by the  
14 Veteran Affairs for post-traumatic stress disorder.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Administration of Controlled Substance in a Manner Dangerous or Injurious Self or**  
17 **Others)**

18 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (h)  
19 in that on or about April 26, 2012, Respondent administered to himself controlled substances in a  
20 manner dangerous or injurious to himself or others when he operated a vehicle while under the  
21 influence of controlled substances, as more particularly set forth above in paragraph 12 and its  
22 subpart.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Violation of Statutes Regulating Controlled Substances and Dangerous Drugs)**

25 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),  
26 on the grounds of unprofessional conduct, in that on or about April 26, 2012, Respondent violated  
27 statutes regulating controlled substances and dangerous drugs, as more fully set forth above in  
28 paragraphs 12 and 13, and their subparts, and Health and Safety Code section 11550, subdivision

1 (a), which provides that no person shall use, or be under the influence of any controlled substance  
2 except when administered by or under the direction of a person licensed by the state to dispense,  
3 prescribe, or administer controlled substances, To Wit: Methamphetamine.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Violation Laws and Regulations Governing Pharmacy)**

6 15. Respondent is subject to disciplinary action under Code sections 4306 and 4301,  
7 subdivision (o), on the grounds of unprofessional conduct, in that on or about April 26, 2012,  
8 Respondent violated the laws and regulations governing pharmacy, as set forth above in  
9 paragraphs 12 through 14, and their subparts.

10 **PRAAYER**

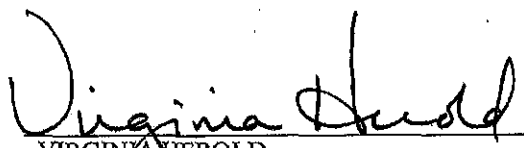
11 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 121402,  
14 issued to Kenneth Aurthur Bobier.;

15 2. Ordering Kenneth Aurthur Bobier to pay the Board of Pharmacy the reasonable costs  
16 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
17 section 125.3;

18 3. Taking such other and further action as deemed necessary and proper.  
19

20  
21 DATED: 11/4/13

  
22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant

28 SA2013111752  
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