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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. 4776

**DANIEL QUIROZ, JR.  
4027 Estrella Avenue B  
San Diego, CA 92105**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**Pharmacy Technician Registration No. TCH 109101  
Pharmacy Technician Registration No. TCH 130305**

Respondent.

**FINDINGS OF FACT**

1. On 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. 4776 against Daniel Quiroz, Jr. (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On February 25, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 109101 to Respondent. Respondent has also been known as Daniel Quiroz. The Pharmacy Technician Registration expired on July 31, 2012, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

3. On February 11, 2013, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 130305 to Respondent. The Pharmacy Technician Registration

1 expired on July 11, 2013, and has not been renewed. This lapse in licensure, however, pursuant  
2 to Business and Professions Code section 4300.1 does not deprive the Board of its authority to  
3 institute or continue this disciplinary proceeding.

4 4. On November 20, 2013, Respondent was served by Certified and First Class Mail  
5 copies of the Accusation No. 4776, Statement to Respondent, Notice of Defense, Request for  
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)  
7 at Respondent's address of record which, pursuant to Business and Professions Code section  
8 4100, is required to be reported and maintained with the Board. Respondent's address of record  
9 was and is 4027 Estrella Avenue B, San Diego, CA 92105.

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

12 6. On November 22, 2013, the domestic return receipt for the aforementioned  
13 documents was returned by the U.S. Postal Service indicating receipt on November 21, 2013.

14 7. Government Code section 11506 states, in pertinent part:

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

20 8. Respondent failed to file a Notice of Defense within 15 days after service upon  
21 him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
22 No. 4776.

23 9. California Government Code section 11520 states, in pertinent part:

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

28 10. 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. 4776, finds that  
3 the charges and allegations in Accusation No. 4776, are separately and severally, found to be true  
4 and correct by clear and convincing evidence.

5 11. 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  
7 Investigation and Enforcement is \$650.00 as of December 19, 2013.

8 **DETERMINATION OF ISSUES**

9 1. Based on the foregoing findings of fact, Respondent Daniel Quiroz, Jr. has  
10 subjected his Pharmacy Technician Registration Numbers TCH 109101 and TCH 130305 to  
11 discipline.

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

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

16 a. Respondent has subjected his pharmacy technician registrations to  
17 discipline under Code sections 490 and 4301, subdivision (l), in that on April 22, 2013, in a  
18 criminal proceeding entitled *The People of the State of California vs. Daniel Quiroz, Jr., aka*  
19 *Daniel Quiroz*, in San Diego County Superior Court, Central Division, Central Courthouse Case  
20 Number M163909, Respondent was convicted on his plea of guilty to violating Vehicle Code  
21 (VC) 23152, subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent  
22 or more, a misdemeanor that is substantially related to the qualifications, functions, and duties of  
23 a registered pharmacy technician.

24 b. Respondent subjected his pharmacy technician registrations to discipline  
25 under Code section 4301, subdivision (h) in that on January 25, 2013, he used alcohol to the  
26 extent and in a manner that was dangerous and injurious to himself and to the public.

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**ORDER**

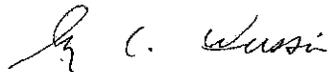
IT IS SO ORDERED that Pharmacy Technician Registration Numbers TCH 109101 and TCH 130305, heretofore issued to Respondent Daniel Quiroz, Jr., also known as Daniel Quiroz are revoked.

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 28, 2014.

It is so ORDERED ON January 29, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



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

70799325.DOC  
DOJ Matter ID:SD2013705561

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
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P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4776

13 **DANIEL QUIROZ, JR.**  
14 **4027 Estrella Avenue B**  
**San Diego, CA 92105**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration No. TCH 109101**  
16 **Pharmacy Technician Registration No. TCH 130305**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

22 2. On February 25, 2011, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 109101 to Daniel Quiroz, Jr. (Respondent). Respondent has also been  
24 known as Daniel Quiroz. Pharmacy Technician Registration Number TCH 109101 expired on  
25 July 31, 2012, and has not been renewed.

26 3. On February 11, 2013, the Board of Pharmacy issued Pharmacy Technician  
27 Registration Number TCH 130305 to Respondent. Pharmacy Technician Registration Number  
28 TCH 130305 expired on July 11, 2013, and has not been renewed.

## JURISDICTION

1  
2 4. 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 5. Section 4300, subdivision (a), of the Code provides that every license issued by the  
6 Board may be suspended or revoked.

7 6. Section 4300.1 of the Code states:

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

## STATUTORY PROVISIONS

13 7. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to  
15 evaluate the 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 8. 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 9. Section 493 of the Code states:

25 Notwithstanding any other provision of law, successful completion of any  
26 diversion program under the Penal Code, or successful completion of an alcohol  
27 and drug problem assessment program under Article 5 (commencing with Section  
28 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit  
any agency established under Division 2 (commencing with Section 500) of this  
code, or any initiative act referred to in that division, from taking disciplinary  
action against a licensee or from denying a license for professional misconduct,  
notwithstanding that evidence of that misconduct may be recorded in a record

1 pertaining to an arrest. This section shall not be construed to apply to any drug  
2 diversion program operated by any agency established under Division 2  
3 (commencing with Section 500) of this code, or any initiative act referred to in  
4 that division.

4 10. Section 4301 of the Code states:

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

8 . . . .

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

12 . . . .

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

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1 **REGULATORY PROVISIONS**

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

3 . . . .

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

8 (1) Nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) The time that has elapsed since commission of the act(s) or  
11 offense(s).

12 (4) Whether the licensee has complied with all terms of parole,  
13 probation, restitution or any other sanctions lawfully imposed against the licensee.

14 (5) Evidence, if any, of rehabilitation submitted by the licensee.

15 12. California Code of Regulations, title 16, section 1770, states:

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

23 **COST RECOVERY**

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

**FIRST CAUSE FOR DISCIPLINE**

**(April 22, 2013 Conviction for Driving With a BAC of .08% or More on January 25, 2013)**

14. Respondent has subjected his pharmacy technician registrations to discipline under  
Code sections 490 and 4301, subdivision (1), in that he was convicted of a crime that is

1 substantially related to the qualifications, functions, and duties of a registered pharmacy  
2 technician. The circumstances are as follows:

3 a. On April 22, 2013, in a criminal proceeding entitled *The People of the*  
4 *State of California vs. Daniel Quiroz, Jr., aka Daniel Quiroz*, in San Diego County Superior  
5 Court, Central Division, Central Courthouse Case Number M163909, Respondent was convicted  
6 on his plea of guilty to violating Vehicle Code (VC) 23152, subdivision (b), driving with a blood  
7 alcohol concentration (BAC) of 0.08 percent or more, a misdemeanor. Charges for violating VC  
8 sections 23152, subdivision (a), driving under the influence of alcohol (DUI) and 23103,  
9 subdivision (a), reckless driving, misdemeanors, were dismissed as a result of a plea bargain.

10 b. As a result of the conviction, on April 22, 2013, Respondent was granted  
11 five years summary probation and sentenced to serve 10 days, with credit for one day actually  
12 served and pay a fine of \$2,123.00 in lieu of rendering 22 additional days under the public  
13 service program, which was suspended. Respondent was also ordered to pay restitution and fees,  
14 and attend and satisfactorily complete a nine-month first offender alcohol and other drug  
15 education and counseling program, and a Mothers Against Drunk Driving (MADD) Victim  
16 Impact Panel.

17 c. The facts that led to the conviction are that on January 25, 2013,  
18 Respondent was driving over the speed limit along Orange Avenue in San Diego, California and  
19 passed the patrol vehicle of two San Diego Police Department officers. The officers positioned  
20 their patrol vehicle behind Respondent's, which turned into Estrella Avenue at a speed of about  
21 40 miles per hour. The posted speed for Estrella Avenue was 25 miles per hour. The officers then  
22 activated their forward red lights to initiate an enforcement stop. Respondent yielded and during  
23 the initial contact the officers observed Respondent's blood shot and watery eyes, with dilated  
24 pupils. Respondent smelled of alcohol, had an unsteady gait, and his speech was slurred and hard  
25 to understand. Respondent became extremely hostile and initially refused to provide breath or  
26 blood samples. Respondent was transported to the San Diego Police Department Headquarters  
27 where he provided a blood sample, which upon testing indicated a BAC of .26 percent.

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