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

In the Matter of the Accusation Against:
VALERIE CHERE LEA
17996 Lemon St.
Hesperia, CA 92345
**Pharmacy Technician Registration No. TCH
94938,**

Respondent.

Case No. 4823
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 13, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4823 against Valerie Chere Lea (Respondent) before the Board of Pharmacy. (A copy of the Accusation attached hereto as Exhibit A.)
2. On or about April 14, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 94938 to Respondent. The Pharmacy Technician Registration expired on July 31, 2013, and has not been renewed.
3. On or about May 13, 2014, Respondent was served by both Certified and First Class Mail with copies of the Accusation No. 4823, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,

1 and 11507.7) at Respondent's address of record which, pursuant to Business and Professions
2 Code section 4100, is required to be reported and maintained with the Board. Respondent's
3 address of record was and is: 17996 Lemon St., Hesperia, CA 92345.

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

7 5. On or about June 30, 2014, the Certified mailing of the aforementioned documents
8 was returned by the U.S. Postal Service marked "Unclaimed." The First Class mailing of the
9 documents was not returned.

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

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

16 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4823.

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

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

23 9. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 4823, finds that
28 the charges and allegations in Accusation No. 4823, are separately and severally, found to be true
and correct by clear and convincing evidence.

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ORDER

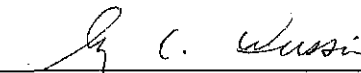
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 94938, heretofore issued to Respondent Valerie Chere Lea, is revoked.

Pursuant to Government Code section 11520(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 20, 2015.

It is so ORDERED January 21, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

Attachment:

Exhibit A: Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 TERRENCE M. MASON
Deputy Attorney General
4 State Bar No. 158935
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6294
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **VALERIE CHERE LEA**
17996 Lemon St.
13 Hesperia, CA 92345
14 Pharmacy Technician Registration
No. TCH 94938
15
16 Respondent.

Case No. 4823

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.
22 2. On or about April 14, 2010, the Board of Pharmacy (Board) issued Pharmacy
23 Technician Registration No. TCH 94938 to Valerie Chere Lea (Respondent). The Pharmacy
24 Technician Registration expired on July 31, 2013, and has not been renewed.

25 **JURISDICTION**

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

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

....

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

....

"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable

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1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency."

3 **REGULATORY PROVISIONS**

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

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

11 **COST RECOVERY**

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

18 **FIRST CAUSE FOR DISCIPLINE**

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

20 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
21 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,
22 Respondent was convicted of a crime substantially related to the qualifications, functions or
23 duties of a pharmacy technician as follows:

24 a. On or March 18, 2013, after pleading guilty, Respondent was convicted of one
25 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while
26 having 0.08% or more, by weight, of alcohol in her blood] in the criminal proceeding entitled *The*
27 *People of the State of California v. Valerie Chere Lea* (San Bernardino County Superior Court
28

1 Case No. TVI300009), The Court sentenced Respondent to serve 10 days in San Bernardino
2 County Jail and placed her on 36 months probation, with terms and conditions.

3 b. The circumstances surrounding the conviction are that on or about September 30,
4 2012, Respondent was in a single vehicle traffic collision with a telephone pole. While speaking
5 to Respondent, the officer detected a strong odor of an alcoholic beverage coming from her
6 breath. She was observed to have watery, bloodshot eyes. Respondent admitted to drinking three
7 or four cans of beer at her house around the corner from the accident. During the booking
8 procedure Respondent submitted to a breath test that resulted in a breath-alcohol content level of
9 0.25% on the first and second reading.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcohol)**

12 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (h), on the grounds of unprofessional conduct, in that Respondent used alcoholic
14 beverage to an extent or in a manner dangerous or injurious to herself, another person, or the
15 public, when she operated a vehicle while having 0.25% of alcohol in her blood. Complainant
16 refers to and by this reference incorporates the allegations set forth above in paragraphs 10,
17 subparagraph (b), as though set forth fully.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

20 12. Respondent is subject to disciplinary action under section 4301, (o), in that
21 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing
22 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above
23 in paragraphs 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

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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 issue a decision:

1. Revoking or suspending Pharmacy Technician Registration No. TCH 94938, issued to Valerie Chere Lea ;
2. Ordering Valerie Chere Lea to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 5/3/14 Virginia Herold

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

LA2013509898
(Rev.3/18/14)