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

In the Matter of the Accusation Against:
DONAVAN PERCIVAL LOUIS
14036 Ibbetson Avenue
Bellflower, CA 90706

Pharmacy Technician Registration No. TCH
118663

Respondent.

Case No. 5263

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 31, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5263 against Donovan Percival Louis (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about November 22, 2011, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 118663 to Respondent. The Pharmacy Technician Registration expired on June 30, 2015, and has not been renewed.

1 3. On or about September 9, 2015, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5263, 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, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is: 14036 Ibbetson Avenue, Bellflower, CA 90706.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. The aforementioned documents were not returned by the U.S. Postal Service.

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

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
18 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
19 5263.

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

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

25 9. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 5263, finds that
the charges and allegations in Accusation No. 5263, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 10. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$580.00 as of December 7, 2015.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Donovan Percival Louis has
6 subjected his Pharmacy Technician Registration No. TCH 118663 to discipline.

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

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

11 a. Respondent subjected his registration to discipline under Business and Professions
12 Code sections 490 and 4301, subdivision (l) in that on or about March 20, 2015, Respondent was
13 convicted of violating Penal Code section 288, subdivision (a), lewd act upon a child under the
14 age of fourteen, a felony which is substantially related to the qualifications, functions and duties
15 of pharmacy technician.

16 b. Respondent subjected his registration to discipline under Business and Professions
17 Code section 4301, subdivisions (a) and (f) on the basis of unprofessional conduct in that he
18 willfully, lewdly, unlawfully and intentionally committed a lewd and lascivious act upon a child
19 under the age of fourteen.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 118663, heretofore issued to Respondent Donovan Percival Louis, 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, 2016.

It is so ORDERED January 25, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

81212932.DOC
DOJ Matter ID:SD2015800982

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(DONAVAN PERCIVAL LOUIS)

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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5263

13 **DONAVAN PERCIVAL LOUIS**
14 **14036 Ibbetson Avenue**
Bellflower, CA 90706

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 118663**

17 Respondent.

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 November 22, 2011, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 118663 to Donovan Percival Louis (Respondent). The Pharmacy
24 Technician Registration expired on June 30, 2015, and has not been renewed.

25 **JURISDICTION**

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

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

3 5. Section 4300.1 of the Code states:

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

8 STATUTORY PROVISIONS

9 6. Section 482 of the Code states:

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

12 (a) Considering the denial of a license by the board under Section 480; or

13 (b) Considering suspension or revocation of a license under Section 490.

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

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

20 8. Section 493 of the Code states:

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

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

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

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1 9. Section 4301 of the Code states:

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

6 (a) Gross immorality.

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

10 (l) The conviction of a crime substantially related to the qualifications, functions,
11 and duties of a licensee under this chapter. The record of conviction of a violation of
12 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
13 regulating controlled substances or of a violation of the statutes of this state regulating
14 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
15 conduct. In all other cases, the record of conviction shall be conclusive evidence only of
16 the fact that the conviction occurred. The board may inquire into the circumstances
17 surrounding the commission of the crime, in order to fix the degree of discipline or, in
18 the case of a conviction not involving controlled substances or dangerous drugs, to
19 determine if the conviction is of an offense substantially related to the qualifications,
20 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a
21 conviction following a plea of nolo contendere is deemed to be a conviction within the
22 meaning of this provision. The board may take action when the time for appeal has
23 elapsed, or the judgment of conviction has been affirmed on appeal or when an order
24 granting probation is made suspending the imposition of sentence, irrespective of a
25 subsequent order under Section 1203.4 of the Penal Code allowing the person to
26 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
27 verdict of guilty, or dismissing the accusation, information, or indictment. . . .

19 REGULATORY PROVISIONS

20 10. California Code of Regulations, title 16, section 1769, subdivision (b) states:

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

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

26 (2) Total criminal record.

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

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

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

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

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

6 COSTS

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

13 FIRST CAUSE FOR DISCIPLINE

14 **(March 20, 2015 Criminal Conviction for Lewd Act Upon a Child Under Fourteen Years)**

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

18 a. On or about March 20, 2015, in a criminal proceeding entitled *People of the*
19 *State of California v. Donovan Percival Louis*, in Orange County Superior Court, case number
20 14WF1697, Respondent was convicted on his plea of guilty to violating Penal Code section 288,
21 subdivision (a), lewd act upon a child under the age of fourteen, a felony.

22 b. As a result of the conviction, Respondent was sentenced to the middle term of
23 six years in state prison. Execution of the prison sentence was stayed, and Respondent was
24 placed on formal probation for five years, and ordered to serve 365 days in jail. Respondent was
25 given pre-custody credit for 660 days. The court ordered Respondent to register as a sex offender
26 (Pen. Code, § 290), and comply with felony probation terms including, but not limited to, a
27 requirement to submit to a Fourth Amendment waiver, not possess or use any unauthorized drugs,
28 not use or possess any alcoholic beverage, not own or possess any dangerous or deadly weapon,

1 and comply with a protective order issued for the victim(s). Additionally, Respondent was
2 prohibited from any involvement in prostitution activities; not use or possess any type of
3 pornography, not frequent any business where erotic materials or shows are sold or displayed, not
4 associate with minors or frequent places where minors congregate, and not date anyone with a
5 minor under 18 years of age without prior permission. The court directed Respondent to enroll in
6 and complete a rehabilitation program if ordered by his probation officer.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Commission of Acts Involving Gross Immorality, Moral Turpitude or Corruption)**

9 14. Respondent has subjected his registration to discipline under section 4301,
10 subdivisions (a) and (f) of the Code for unprofessional conduct. On March 15, 2015, as referred
11 to in paragraph 13, above, Respondent stated the following in his plea agreement: "In Orange
12 County, California, between the dates of December 1, 2013 and April 24, 2014, I willfully,
13 lewdly, unlawfully, and intentionally committed a lewd and lascivious act upon and with the
14 body of Jane Doe when I had sexual intercourse with her and Jane Doe was a child under the age
15 of fourteen years, to wit: Jane Doe was twelve years old, and I did so with the intent of arousing,
16 appealing to, and gratifying the lust, passions, and sexual desires of myself and Jane Doe." Said
17 conduct involves gross immorality, moral turpitude, or corruption.

18 **PRAYER**

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

21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 118663,
22 issued to Donovan Percival Louis;

23 2. Ordering Donovan Percival Louis to pay the Board of Pharmacy the reasonable costs
24 of the investigation and enforcement of this case, pursuant to Business and Professions Code
25 section 125.3;

26 ///

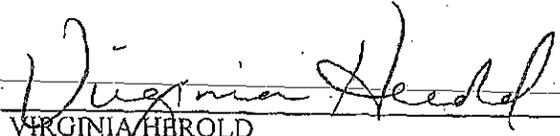
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3. Taking such other and further action as deemed necessary and proper.

DATED: 8/31/15



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

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