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

In the Matter of the Accusation Against:
ANTHONY ARNESS BENSON
327 Kiawah River Dr.
Oxnard, CA 93036
Pharmacy Technician Registration No. TCH 137836
Respondent.

Case No. 5304
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 20, 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. 5304 against Anthony Arness Benson (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about January 15, 2014, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 137836 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5304 and will expire on January 31, 2016, unless renewed.

3. On or about October 29, 2015, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5304, 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: 327 Kiawah River Dr., Oxnard, CA 93036.

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 him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 5304.

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

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

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 5304, finds that
27 the charges and allegations in Accusation No. 5304, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

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 are \$552.50 as of January 12, 2016.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Anthony Arness Benson has
3 subjected his Pharmacy Technician Registration No. TCH 137836 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 sections 4301, subdivision (l) and 490, in conjunction
9 with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of
10 a crime substantially related to the qualifications, functions or duties of a pharmacy technician.
11 Specifically, on or about June 26, 2015, Respondent was convicted of one misdemeanor count of
12 violating Penal Code section 273A, subdivision (a) [willful cruelty to child], one felony count of
13 violating Penal Code section 245, subdivision (a)(1) [assault with a deadly weapon], and one
14 felony count of violating Penal Code section 459 [first degree residential burglary] in the criminal
15 proceeding entitled *The People of the State of California v. Anthony Arness Benson* (Super. Ct.
16 Ventura County, 2015, No. 2014026013). The Court sentenced Respondent to serve 365 days in
17 jail, ordered him to attend 52 sessions of domestic violence counseling, and placed him on 48
18 months formal probation, with terms and conditions.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 137836, heretofore issued to Respondent Anthony Arness Benson, 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 March 17, 2016.

It is so ORDERED February 16, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

61844339.DOC
DOJ Matter ID:LA2015501121

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(ANTHONY ARNESS BENSON)

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2 LINDA K. SCHNEIDER
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5304

12 **ANTHONY ARNESS BENSON**
327 Kiawah River Dr.
13 Oxnard, CA 93036

A C C U S A T I O N

14 Pharmacy Technician Registration
15 No. TCH 137836

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about January 15, 2014, the Board issued Pharmacy Technician Registration
23 No. TCH 137836 to Anthony Arness Benson (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and will
25 expire on January 31, 2016, unless renewed.

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1 **JURISDICTION**

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

4 4. Section 4300 provides in pertinent part, that every license issued by the Boards is
5 subject to discipline, including suspension or revocation.

6 5. Section 4300.1 states, in pertinent part:

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

12 **STATUTORY AND REGULATORY PROVISIONS**

13 6. Section 490 states, in pertinent part:

14 "(a) In addition to any other action that a board is permitted to take against a licensee, a
15 board may suspend or revoke a license on the ground that the licensee has been convicted of a
16 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
17 or profession for which the license was issued.

18 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
19 discipline a licensee for conviction of a crime that is independent of the authority granted under
20 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of
21 the business or profession for which the licensee's license was issued.

22 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
23 conviction following a plea of nolo contendere. Any action that a board is permitted to take
24 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
25 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
26 made suspending the imposition of sentence, irrespective of a subsequent order under the
27 provisions of Section 1203.4 of the Penal Code."

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1 7. Section 4301 states, in pertinent part:

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

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

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

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

3 **COST RECOVERY**

4 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
5 law judge to direct a licentiate found to have committed a violation or violations of the licensing
6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
7 case.

8 **FIRST CAUSE FOR DISCIPLINE**

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

10 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
11 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,
12 Respondent was convicted of a crime substantially related to the qualifications, functions or duties
13 of a pharmacy technician as follows:

14 a. On or about, June 26, 2015, after pleading guilty, Respondent was convicted of one
15 misdemeanor count of violating Penal Code section 273A, subdivision (a) [willful cruelty to child],
16 one felony count of violating Penal Code section 245, subdivision (a)(1) [assault with a deadly
17 weapon], and one felony count of violating Penal Code section 459 [first degree residential
18 burglary] in the criminal proceeding entitled *The People of the State of California v. Anthony*
19 *Arness Benson* (Super. Ct. Ventura County, 2015, No. 2014026013). The Court sentenced
20 Respondent to serve 365 days in jail, ordered him to attend 52 sessions of domestic violence
21 counseling, and placed him on 48 months formal probation, with terms and conditions.

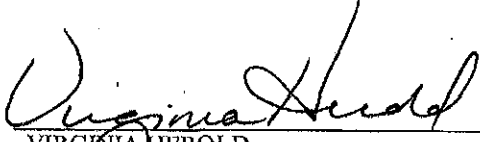
22 b. The circumstances surrounding the conviction are that on or about August 23, 2014,
23 Oxnard Police officers responded to a call of domestic violence. When the officers arrived,
24 emergency personnel present at the scene advised officers that M.H. and her 14 year old daughter,
25 A.H., required immediate medical attention. M.H. told officers that Respondent had been served
26 with a temporary domestic violence restraining order the night before. This morning when M.H.
27 opened the door to go to the backyard, Respondent grabbed her by the throat with both hands and
28 told her, "I'm going to kill you." He dragged her inside the residence and slammed her head

1 against the tiled kitchen island. When the victim's daughter came in the kitchen and attempted to
2 stop Respondent, he punched her in the face knocking her to the floor. Both victims had visible
3 injuries.

4 PRAYER

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board issue a decision:

- 7 1. Revoking or suspending Pharmacy Technician Registration No. TCH 137836, issued
8 to Anthony Arness Benson;
- 9 2. Ordering Anthony Arness Benson to pay the Board o the reasonable costs of the
10 investigation and enforcement of this case, pursuant to section 125.3; and
- 11 3. Taking such other and further action as deemed necessary and proper.

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14 DATED: 10/20/15 
15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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