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

In the Matter of the Accusation Against:

**YVETTE K. KONSTANTINOVA**  
**5664 Arbor Grove Court**  
**San Diego, CA 92121**

**and**

**11022 Via Parma**  
**San Diego, CA 92129**  
**Pharmacy Technician Registration No. TCH**  
**66537**

Respondent.

Case No. 5319

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about January 17, 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. 5319 against Yvette K. Konstantinova (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about December 15, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 66537 to Respondent. The Pharmacy Technician Registration

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 5319  
2 and will expire on February 28, 2017, unless renewed.

3 3. On or about February 26, 2015, Respondent was served by Certified and First Class  
4 Mail copies of the Accusation No. 5319, Statement to Respondent, Notice of Defense, Request  
5 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
6 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
7 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
8 record was and is 5664 Arbor Grove Court, San Diego, CA 92121. Respondent was also served at  
9 the same time, and manner at the address noted in her June 2, 2014 arrest report of 11022 Via  
10 Parma, San Diego, CA 92129.

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. Government Code section 11506 states, in pertinent part:

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

20 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5319.

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

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

27 8. Pursuant to its authority under Government Code section 11520, the Board finds  
28 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  
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. 5319, finds that

1 the charges and allegations in Accusation No. 5319, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for investigation  
5 and enforcement is \$957.50 as of March 27, 2015.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Yvette K. Konstantinova has  
8 subjected her Pharmacy Technician Registration No. TCH 66537 to discipline.

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

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

13 a. Business and Professions Code sections 490 and 4301(l) authorize revocation for  
14 Respondent's June 2, 2014, criminal conviction for driving with a blood alcohol concentration of  
15 0.08 percent or more.

16 b. Business and Professions Code section 4301(h) authorizes revocation for  
17 Respondent's unprofessional conduct when she committed unprofessional conduct by using  
18 alcohol in manner dangerous to herself and to the public.

19 c. Business and Professions Code section 4301(k) authorizes revocation for  
20 Respondent's misdemeanor conviction relating to alcohol consumption.

21 d. Moreover, as a further disciplinary consideration is the fact that Respondent previously  
22 received Citation Number CI 2008 38793 due to her conviction on April 3, 2008, of driving with  
23 a blood alcohol concentration of 0.08 percent or more on February 16, 2008.

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ORDER

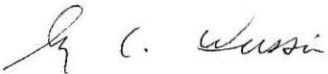
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 66537, heretofore issued to Respondent Yvette K. Konstantinova, is revoked.

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 May 22, 2015.

It is so ORDERED on April 22, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



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

71056452.DOC  
DOJ Matter ID:SD2014708081

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2105  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5319

13 **YVETTE K. KONSTANTINOVA**  
14 **5664 Arbor Grove Court**  
**San Diego, CA 92121**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH 66537**

16 Respondent.

17  
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 December 15, 2005, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 66537 to Yvette K. Konstantinova (Respondent). Respondent has also  
24 been known as Yvette Kirilova Konstantinova. The Pharmacy Technician Registration was in  
25 full force and effect at all times relevant to the charges brought herein and will expire on  
26 February 28, 2015, unless renewed.

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2 (k) The conviction of more than one misdemeanor or any felony involving  
3 the use, consumption, or self-administration of any dangerous drug or alcoholic  
4 beverage, or any combination of those substances.

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

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**REGULATORY PROVISIONS**

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

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

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or  
offense(s).
- (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.

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

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

#### 7 **COST RECOVERY**

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

#### 14 **FIRST CAUSE FOR DISCIPLINE**

15 **(August 11, 2014 Conviction for Driving with a BAC .08 Percent or More on June 2, 2014)**

16 11. Respondent has subjected her pharmacy technician registration to discipline under  
17 Code sections 490 and 4301, subdivision (l), in that she was convicted of crimes that are  
18 substantially related to the qualifications, functions, and duties of a registered pharmacy  
19 technician. The circumstances are as follows:

20 a. On August 11, 2014, in a criminal proceeding entitled *The People of the*  
21 *State of California v. Yvette Kirilova Konstantinova*, in the San Diego County Superior Court,  
22 Central Courthouse, Criminal Division Case Number M186503, Respondent was convicted on  
23 her plea of no contest to violating Vehicle Code (VC) sections 23152, subdivisions (a), driving  
24 while under the influence of alcohol (DUI), and (b), driving with a blood alcohol concentration  
25 (BAC) of 0.08 percent or more, misdemeanors. Respondent admitted and the court found true the  
26 allegation that pursuant to VC sections 23626 and 23540, within ten years of violating VC  
27 section 23152, subdivisions (a) and (b), mentioned above, on February 16, 2008, Respondent  
28 committed a separate violation of VC section 23152, subdivision (b), driving with a BAC of 0.08

1 percent or more, a misdemeanor resulting in a conviction on April 3, 2008, in case number  
2 M044374, detailed in paragraph 15, below.

3 b. As a result of the convictions, on August 11, 2014, Respondent was  
4 sentenced to be committed to the custody of the San Diego County Sheriff for 96 hours, to be  
5 served under the work release program. Respondent was granted five years summary probation  
6 under standard alcohol conditions. Respondent was ordered to pay fines and restitution and  
7 render 20 days of work under the public service program, with credit for two days served.  
8 Respondent was also ordered to attend and satisfactorily complete a multiple offender DUI  
9 program and a Mothers Against Drunk Driving (MADD) Victim Impact Panel session.  
10 Respondent was further ordered to install an ignition interlock device in her vehicle for two  
11 years.

12 c. The facts that led to the conviction are that on June 2, 2014, Respondent  
13 was reported as a possible drunk driver while she was driving in the Carmel Mountain Road and  
14 Paseo Cardiel area in San Diego, California. Respondent continued driving to her residence  
15 where responding officers from the San Diego Police Department (SDPD) followed. One police  
16 officer walked up to Respondent and smelled alcohol from Respondent's person and from her  
17 breath as she talked. Respondent's eyes were glassy and she was unable to stand without  
18 swaying. Respondent's clothes were disheveled and her speech was slurred and difficult to  
19 understand. Respondent failed the series of field sobriety tests, which she could not complete.  
20 Respondent could not complete a preliminary alcohol sensor test either. Respondent was arrested  
21 and transported to the SDPD headquarters, where she consented to chemical breath tests.  
22 Respondent's subsequent chemical test results indicated a BAC of .24 percent and .23 percent  
23 after three minutes.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

26 12. Respondent has subjected her pharmacy technician registration to discipline under  
27 Code section 4301, subdivision (h) in that on June 2, 2014, she used alcohol to the extent and in

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1 a manner that was dangerous and injurious to herself and to the public, as described in the cause  
2 above, which is incorporated by reference.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Conviction of Alcohol Related Misdemeanors)**

5 13. Respondent has subjected her pharmacy technician registration to discipline under  
6 Code section 4301, subdivision (k) in that on August 11, 2014, she was convicted of more than  
7 one misdemeanor involving the use or consumption of alcohol.

8 **DISCIPLINARY CONSIDERATIONS**

9 14. To determine the degree of discipline, if any, to be imposed on Respondent,  
10 Complainant alleges:

11 15. On April 3, 2008, in a prior criminal proceeding entitled *The People of the State*  
12 *of California v. Yvette Kirilova Konstantinova*, in the San Diego County Superior Court, Central  
13 Courthouse, Criminal Division Case Number M044374, Respondent was convicted on her plea  
14 of no contest to violating VC section 23152, subdivision (b), driving with a BAC of 0.08 percent  
15 or more, a misdemeanor. A misdemeanor charge for violation of VC section 23152, subdivision  
16 (a), DUI, was dismissed pursuant to a plea bargain. As a result of the conviction, on April 3,  
17 2008, Respondent was sentenced to five years summary probation under standard alcohol  
18 conditions and ordered to attend and satisfactorily complete a first offender DUI program for  
19 nine months and a MADD Victim Impact Panel session. Respondent was also ordered to pay  
20 fines, fees, restitution, and penalty assessments and render 15 days work under the public service  
21 program, with credit for two days served. The facts that led to the conviction are that on  
22 February 16, 2008, while driving on Stalmer Street in San Diego, California, Respondent's car  
23 crashed into a legally parked vehicle. Respondent stayed by her car until responding officers  
24 from the SDPD arrived. A police officer initiated contact with Respondent and smelled alcohol  
25 from Respondent's person and from her breath. Respondent's face was lax and she swayed while  
26 standing. Respondent failed the series of field sobriety tests, which she could not complete.  
27 Respondent was arrested and transported to the SDPD headquarters, where she consented to  
28 provide a blood sample, which upon testing indicated a BAC of .32 percent.

1 16. As a result of Respondent's conviction, detailed in paragraph 15, above, on  
2 October 25, 2010, the Board issued Respondent Citation Number CI 2008 38793, ordering her to  
3 pay a fine assessed at \$200.00. The citation included the following charges:

4 a. Respondent violated Code section 4301, subdivision (h), in that on  
5 February 16, 2008, she used alcohol in a manner dangerous to herself and to others.

6 b. Respondent violated Code section 4301, subdivision (l), in that on April 3,  
7 2008, Respondent was convicted of a misdemeanor substantially related to the qualifications,  
8 functions, and duties of a registered pharmacy technician.

9 **PRAYER**

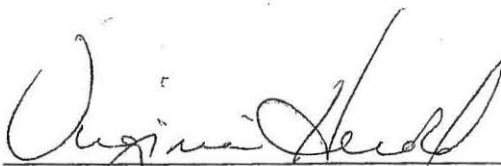
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
11 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 66537,  
13 issued to Yvette K. Konstantinova;

14 2. Ordering Yvette K. Konstantinova to pay the Board of Pharmacy the reasonable  
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
16 Code section 125.3; and

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

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20 DATED: 1/17/15



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

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