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

In the Matter of the Accusation Against:

CANDICE MARIE LAMBERT
109 Stirling Drive
Vacaville, CA 95687

Pharmacy Technician Registration No. TCH
100092

Respondent.

Case No. 5490

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 14, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5490 against Candice Marie Lambert (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 30, 2010, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 100092 to Candice Marie Lambert (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in this Accusation and expired on May 31, 2015.

3. On or about October 27, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5490, 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: 109 Stirling Drive, Vacaville, CA 95687.

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. On or about November 16, 2016, the aforementioned documents were returned by the
9 U.S. Postal Service marked "Return to Sender - Unable to Forward."

10 6. Government Code section 11506(c) 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
13 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
14 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
15 discretion 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. 5490.

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

19 (a) If the respondent either fails to file a notice of defense . . . or to appear at
20 the hearing, the agency may take action based upon the respondent's express
21 admissions or upon other evidence and affidavits may be used as evidence without
22 any notice to 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. 5490, finds that
28 the charges and allegations in Accusation No. 5490, are separately and severally, found to be true
and correct by clear and convincing evidence.

10 10. Taking official notice of its own internal records, pursuant to Business and
11 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation

1 and Enforcement is \$1,402.50 as of December 7, 2016.

2 DETERMINATION OF ISSUES

3 1. Based on the foregoing findings of fact, Respondent Candice Marie Lambert has
4 subjected her Pharmacy Technician No. TCH 100092 to discipline.

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

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

9 a. Violation of Business & Professions Code, section 4060 (Possessing Controlled
10 Substances Without a Prescription);

11 b. Violation of Business & Professions Code, section 4301, subdivision (j) (Violation of
12 Laws Relating to Controlled Substance).

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 100092, issued to Respondent Candice Marie Lambert, 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 at 5:00 p.m. on February 22, 2017.

It is so ORDERED on January 23, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
Amy Gutierrez, Pharm.D.
Board President

SF2016900542
90733288.doc
Attachment: Exhibit A: Accusation

Exhibit A

Accusation No. 5490

(CANDICE MARIE LAMBERT)

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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12
13 **CANDICE MARIE LAMBERT**
109 Stirling Drive
14 Vacaville, CA 95687
15 **Pharmacy Technician Registration No. TCH**
100092
16 Respondent.

Case No. 5490
ACCUSATION

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 March 30, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 100092 to Candice Marie Lambert (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought in
25 this Accusation and expired on May 31, 2015.

26 ///
27 ///
28 ///

JURISDICTION

1
2 3. 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 unless otherwise indicated,

5 4. Section 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300 of the Code states, in relevant part:

9 "(a) Every license issued may be suspended or revoked.

10 "(b) The board shall discipline the holder of any license issued by the board, whose default
11 has been entered or whose case has been heard by the board and found guilty, by any of the
12 following methods:

13 "(1) Suspending judgment.

14 "(2) Placing him or her upon probation.

15 "(3) Suspending his or her right to practice for a period not exceeding one year.

16 "(4) Revoking his or her license.

17 "(5) Taking any other action in relation to disciplining him or her as the board in its
18 discretion may deem proper.

19
20 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
21 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
22 shall have all the powers granted therein. The action shall be final, except that the propriety of the
23 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
24 Procedure."

25 6. Section 4300.1 of the Code states:

26 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
27 operation of law or by order or decision of the board or a court of law, the placement of a license
28 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board

1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 STATUTES

4 7. Section 4301 of the Code states, in relevant part:

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

8 ...
9 "(j) The violation of any of the statutes of this state, or any other state, or of the United
10 States regulating controlled substances and dangerous drugs."

11 8. Section 4060 of the Code states:

12 "No person shall possess any controlled substance, except that furnished to a person upon
13 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
15 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
16 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
17 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
18 subparagraph (A) of paragraph (5) of; subdivision (a) of Section 4052. This section shall not
19 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
20 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
21 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
22 labeled with the name and address of the supplier or producer.

23 "This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
24 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

25 DRUGS

26 9. Code section 4021 states:

27 "'Controlled substance' means any substance listed in Chapter 2 (commencing with Section
28 11053) of Division 10 of the Health and Safety Code."

