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

In the Matter of the Accusation Against:  
**COURTNEY MARY-ARLETTE VARGAS**  
16016 Muni Road, Apt. #16  
Apple Valley, CA 92307  
  
Pharmacy Technician Registration  
No. TCH 71107  
  
Respondent.

Case No. 5495  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 4, 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. 5495 against Courtney Mary-Arlette Vargas (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 9, 2006, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 71107 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5495 and will expire on January 31, 2016, unless renewed.

///

1           3.     On or about September 22, 2015, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 5203, 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: 20042 Sonoma Road, Apple Valley, CA 92308.

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.     On or about December 15, 2015, the aforementioned documents were returned by the  
11 U.S. Postal Service marked "Unclaimed." The address on the documents was the same as the  
12 address on file with the Board.

13          6.     On or about November 2, 2015, Respondent was served by Certified and First Class  
14 Mail copies of the Accusation No. 5203, Statement to Respondent, Notice of Defense, Request  
15 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
16 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
17 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
18 record was: 16016 Muni Road, Apt. #16, Apple Valley, CA 92307.

19          7.     Service of the Accusation was effective as a matter of law under the provisions of  
20 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
21 124.

22          8.     On or about November 19, 2015, the aforementioned documents were returned by the  
23 U.S. Postal Service marked "Unclaimed." The address on the documents was the same as the  
24 address on file with the Board. Respondent failed to maintain an updated address with the Board  
25 and the Board has made attempts to serve the Respondent at the address on file. Respondent has  
26 not made herself available for service and therefore, has not availed herself of her right to file a  
27 notice of defense and appear at hearing.

28     ///

1 9. Government Code section 11506 states, in pertinent part:

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

7 10. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
8 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5495.

9 11. California Government Code section 11520 states, in pertinent part:

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

14 12. Pursuant to its authority under Government Code section 11520, the Board finds  
15 Respondent is in default. The Board will take action without further hearing and, based on the  
16 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
17 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
18 file at the Board's offices regarding the allegations contained in Accusation No. 5495, finds that  
19 the charges and allegations in Accusation No. 5495, are separately and severally, found to be true  
20 and correct by clear and convincing evidence.

21 13. Taking official notice of its own internal records, pursuant to Business and  
22 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
23 and Enforcement are \$877.50 as of January 13, 2016.

24 DETERMINATION OF ISSUES

25 1. Based on the foregoing findings of fact, Respondent Courtney Mary-Arlette Vargas  
26 has subjected her Pharmacy Technician Registration No. TCH 71107 to discipline.

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

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

///

1 a. Business and Professions Code sections 4300, and 4301, subdivision (1), in  
2 conjunction with, California Code of Regulations, title 16, section 1770, in that Respondent was  
3 convicted of a crime substantially related to the qualifications, functions, and duties of a  
4 pharmacy technician. Specifically, on or about April 2, 2015, after pleading nolo contendere,  
5 Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152,  
6 subdivision (a) [driving under the influence of alcohol] in the criminal proceeding entitled *The*  
7 *People of the State of California v. Courtney Mary Arlette Vargas* (Super. Ct. San Bernardino  
8 County, 2015, No. TV11401134). The Court sentenced Respondent to serve 10 days in San  
9 Bernardino County jail, ordered her to complete a 3-month first offender alcohol program, and  
10 placed her on 36 months probation, with terms and conditions.

11 b. Business and Professions Code section 4301, subdivision (h), on the grounds of  
12 unprofessional conduct, in that Respondent used alcoholic beverages to an extent or in a manner  
13 dangerous or injurious to herself, any person, or the public when she operated a vehicle while  
14 having 0.33% of alcohol in her blood.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 71107, heretofore issued to Respondent Courtney Mary-Arlette Vargas, 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

61847386.DOC  
DOJ Matter ID:LA2015501048

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(COURTNEY MARY-ARLETTE VARGAS)

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
4 State Bar No. 225325  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2542  
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**

12 In the Matter of the Accusation Against:

Case No. 5495

13 **COURTNEY MARY-ARLETTE VARGAS**

**A C C U S A T I O N**

14 20042 Sonoma Road  
15 Apple Valley, CA 92308

16 Pharmacy Technician Registration  
17 No. TCH 71107

Respondent.

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 August 9, 2006, the Board issued Pharmacy Technician Registration No.  
23 TCH 71107 to Courtney Mary-Arlette Vargas (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.

26 **JURISDICTION**

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

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

3           5.     Section 4300.1 states:

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

9                                   **STATUTORY AND REGULATORY PROVISIONS**

10          6.     Section 4301 states, in pertinent part:

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

14          .....

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

20          .....

21          "(i) The conviction of a crime substantially related to the qualifications, functions, and  
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
24 substances or of a violation of the statutes of this state regulating controlled substances or  
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
27 The board may inquire into the circumstances surrounding the commission of the crime, in order to  
28 fix the degree of discipline or, in the case of a conviction not involving controlled substances or

1 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
4 of this provision. The board may take action when the time for appeal has elapsed, or the  
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
9 indictment."

10 7. California Code of Regulations, title 16, section 1770, states:

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

17 **COST RECOVERY**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

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

3 9. Respondent is subject to disciplinary action under section 4300, and 4301, subdivision  
4 (1), in conjunction with, California Code of Regulations, title 16, section 1770, in that Respondent  
5 was convicted of a crime substantially related to the qualifications, functions, and duties of a  
6 pharmacy technician, as follows:

7 a. On or about April 2, 2015, after pleading nolo contendere, Respondent was convicted  
8 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (a) [driving under  
9 the influence of alcohol] in the criminal proceeding entitled *The People of the State of California*  
10 *v. Courtney Mary Arlette Vargas* (Super. Ct. San Bernardino County, 2015, No. TVI1401134).  
11 The Court sentenced Respondent to serve 10 days in San Bernardino County jail, ordered her to  
12 complete a 3-month first offender alcohol program, and placed her on 36 months probation, with  
13 terms and conditions.

14 b. The circumstances surrounding the conviction are that on or about March 17, 2014, a  
15 San Bernardino County Sheriff's deputy responded to a call of a possible drunk driver driving  
16 between 60 and 80 miles per hour in a residential area. The deputy attempted to stop the vehicle,  
17 but Respondent accelerated and fled, then crashed into a concrete landscape pillar at the front of a  
18 residence, trapping her inside the vehicle. As the deputy approached Respondent, he could smell a  
19 strong odor of an alcoholic beverage coming from inside the vehicle. Respondent's speech was  
20 slurred, confused, and incoherent. Respondent admitted to drinking an unknown amount of  
21 "fireball shots." Respondent was transported to St. Mary's Hospital for her injuries. While at the  
22 hospital Respondent submitted to a blood test that resulted in a blood alcohol content level of  
23 0.33%.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Dangerous Use of Alcohol)**

26 10. Respondent is subject to disciplinary action under sections 4301, subdivision (h), on  
27 the grounds of unprofessional conduct, in that, on or about March 17, 2014, Respondent used  
28 alcoholic beverages to an extent or in a manner dangerous or injurious to herself, any person, or

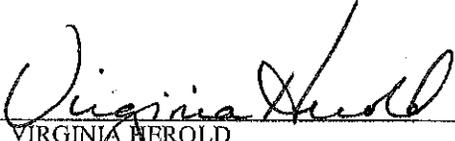
1 the public when she operated a vehicle while having 0.33% of alcohol in her blood. Complainant  
2 refers to, and by this reference incorporates, the allegations set forth above in paragraph 9,  
3 subparagraph (b), as though fully set forth herein.

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 71107, issued to  
8 Courtney Mary-Arlette Vargas;
- 9 2. Ordering Courtney Mary-Arlette Vargas to pay the Board 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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13  
14 DATED: 9/4/15

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

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