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

In the Matter of the Accusation Against:

ANDREA J. MEDINA
18323 Soledad Canyon Rd., #25
Canyon Country, CA 91387

Pharmacy Technician Registration
No. TCH 107518

Respondent.

Case No. 5744

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about June 10, 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. 5744 against Andrea J. Medina (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about November 18, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 107518 to Respondent. The Pharmacy Technician Registration expired on July 31, 2014, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code section 118(b) and/or agency-specific statute does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

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1 3. On or about July 6, 2016, Respondent was served by Certified and First Class Mail
2 copies of the Accusation No. 5744, Statement to Respondent, Notice of Defense, Request for
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is: 18323 Soledad Canyon Rd., #25, Canyon Country, CA 91387.

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. 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 6. 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. 5744.

18 7. 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 8. 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. 5744, finds that
28 the charges and allegations in Accusation No. 5744, are separately and severally, found to be true
and correct by clear and convincing evidence.

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1 24, 2011, Respondent was convicted of one misdemeanor count of violating Vehicle Code section
2 23152, subdivision (b) [driving while having 0.08% or more, by weight of alcohol, in her blood]
3 in the criminal proceeding entitled *The People of the State of California v. Andrea J. Medina*
4 (Super. Ct. L.A. County, 2011, No. 1NW01417).

5 **ORDER**

6 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 107518, heretofore
7 issued to Respondent Andrea J. Medina, is revoked.

8 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
9 written motion requesting that the Decision be vacated and stating the grounds relied on within
10 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
11 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

12 This Decision shall become effective at 5:00 p.m. on October 14, 2016.

13 It is so ORDERED on September 14, 2016.

14
15 BOARD OF PHARMACY
16 DEPARTMENT OF CONSUMER AFFAIRS
17 STATE OF CALIFORNIA

18 

19
20 By _____

Amy Gutierrez, Pharm.D.

21 52194468.DOC
22 DOJ Matter ID:LA2016600613
Jz(8/19/16)

23 Attachment:
24 Exhibit A: Accusation

Exhibit A

Accusation

(ANDREA J. MEDINA)

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **ANDREA J. MEDINA**
13 18323 Soledad Canyon Rd., #25
14 Canyon Country, CA 91387
15 Pharmacy Technician Registration
16 No. TCH 107518
17 Respondent.

Case No. 5744
ACCUSATION

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, Department of Consumer Affairs.
22 2. On or about November 18, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration No. TCH 107518 to Andrea J. Medina (Respondent). The Pharmacy Technician
24 Registration expired on July 31, 2014, and has not been renewed.

25 **JURISDICTION**

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

1 **COST RECOVERY**

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Dangerous Use of Alcohol)**

8 9. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
9 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent used
10 alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself, another
11 person, or the public. On or about May 21, 2015, during an investigation of a drunk person, an
12 officer observed Respondent seated at a table with her head lying on the table top. Respondent
13 lifted her head and stated, "What the f.k you want?" The officer asked her to stand up in order to
14 escort her out of the business, but she failed to acknowledge the officer's request. The officer
15 asked her a second time, which she did with great difficulty, stumbled, and needed to hold onto the
16 table to keep from falling. She had a strong odor of an alcoholic beverage on her breath and
17 person. Respondent was unable to provide for her safety or the safety of others and was
18 subsequently arrested, in violation of Penal Code section 647, subdivision (f) [public intoxication].

19
20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Violating Provisions of the Pharmacy Practice Act)**

22 10. Respondent is subject to disciplinary action under section 4301, subdivision (o) for
23 violating provisions of the Pharmacy Practice Act. Complainant refers to, and by this reference
24 incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

25 **DISCIPLINARY CONSIDERATIONS**

26 11. In order to determine the degree of discipline, if any to be imposed on Respondent,
27 Complainant alleges the following:
28

1 a. On or about November 21, 2013, the Board issued Citation and Fine No. CI 2013
2 57925 to Respondent for violating section 4301, subdivisions (h), (k), and (l), resulting in the
3 issuance of a \$750.00 fine. Respondent has not complied with the Citation. Specifically, on or
4 about July 1, 2013, Respondent was convicted of one misdemeanor count of violating Vehicle
5 Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight of alcohol, in
6 her blood] in the criminal proceeding entitled *The People of the State of California v. Andrea J.*
7 *Medina* (Super. Ct. L.A. County, 2013, No. 3NW00702). The court sentenced Respondent to
8 serve 30 days in jail and placed her on 60 months probation, with terms and conditions. The
9 circumstances surrounding the conviction are that on or about February 12, 2013, during a traffic
10 collision investigation of an overturned vehicle, an officer observed Respondent to have a strong
11 odor of an alcoholic beverage coming from her breath. She had red watery eyes and a slow
12 speech. Respondent admitted that she drank 2 sips of Moon Shine. Respondent failed to perform
13 the standard Field Sobriety Tests (F.S.T.), as explained and demonstrated by the officer. During
14 the booking procedure, Respondent submitted to a blood test that resulted in a blood-alcohol
15 concentration level of 0.09%.

16 b. On or about June 13, 2013, the Board issued Citation and Fine No. CI 2010 47518 to
17 Respondent for violating section 4301, subdivisions (h) and (l), resulting in the issuance of a
18 \$500.00 fine. Respondent has complied with the Citation. Specifically, on or about March 24,
19 2011, Respondent was convicted of one misdemeanor count of violating Vehicle Code section
20 23152, subdivision (b) [driving while having 0.08% or more, by weight of alcohol, in her blood] in
21 the criminal proceeding entitled *The People of the State of California v. Andrea J. Medina* (Super.
22 Ct. L.A. County, 2011, No. 1NW01417). The court placed Respondent on 36 months probation,
23 with terms and conditions. The circumstances surrounding the conviction are that on or about
24 February 25, 2011, during a traffic collision investigation of a truck high-sided on a tree trunk, an
25 officer observed Respondent to have a strong odor of an alcoholic beverage emitting from her
26 breath and person. She was slurring her words. Respondent admitted that she drank one glass of
27 Vodka with orange juice. Respondent did not perform the standard Field Sobriety Tests (F.S.T.),
28 as explained and demonstrated by the officer. While at the scene, Respondent submitted to a

1 Preliminary Alcohol Screening (PAS) test, which resulted in a breath-alcohol concentration level
2 of 0.22% on the first and second reading.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician Registration No. TCH 107518, issued
7 to Andrea J. Medina;
8 2. Ordering Andrea J. Medina to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3; and
11 3. Taking such other and further action as deemed necessary and proper.

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13
14 DATED: 6/10/16

Virginia Herold

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

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