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

In the Matter of the Accusation Against:  
**RICHARD L. CHURCH**  
6703 22nd Street  
Rio Linda, CA 95673  
  
**Pharmacy Technician License No. TCH  
26632**  
  
Respondent.

Case No. 5759  
OAH No. 2016090985  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about August 15, 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. 5759 against Richard L. Church (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about August 3, 1998, the Board of Pharmacy (Board) issued Pharmacy Technician License Number TCH 26632 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 5759 and will expire on April 30, 2018, unless renewed.

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1           3. On or about August 29, 2016, Respondent was served by Certified and First Class  
2 Mail copies of Accusation No. 5759, 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:

7 6703 22nd Street  
8 Rio Linda, CA 95673.

9           4. Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5. On or about September 12, 2016, Respondent signed and returned a Notice of  
13 Defense, requesting a hearing in this matter. A Notice of Hearing was served by Certified and  
14 First Class mail at Respondent's address of record and it informed him that an administrative  
15 hearing in this matter was scheduled for October 27, 2016. The Certified and First Class mail  
16 documents were never returned, nor did Respondent return a signed Certified Mail receipt.  
17 Respondent failed to appear at the hearing.

18           6. Government Code section 11506(c) states, in pertinent part:

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

24           7. California Government Code section 11520(a) states, in pertinent part:

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

          8. Pursuant to its authority under Government Code section 11520, the Board finds  
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

1 taking official notice of all the investigatory reports, exhibits, and statements contained therein on  
2 file at the Board's offices regarding the allegations contained in Accusation No. 5759, finds that  
3 the charges and allegations in Accusation No. 5759, are separately and severally, found to be true  
4 and correct by clear and convincing evidence.

5 9. Taking official notice of its own internal records, pursuant to Business and  
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
7 and Enforcement are \$2,324.50 as of October 10, 2016.

#### 8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Richard L. Church has subjected  
10 his Pharmacy Technician License Number TCH 26632 to discipline.

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

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

15 a. Respondent violated Business and Professions Code section 4301(l), on the grounds  
16 of unprofessional conduct, in that on or about November 30, 2015, in the case of *People v.*  
17 *Richard Leroy Church* (Super. Ct. Sacramento County, Case No. 15M13662), Respondent was  
18 convicted by the Court on his plea of nolo contendere of violating Vehicle Code section 23152(b)  
19 (driving a vehicle while having a blood alcohol level of .08% or higher), a misdemeanor, and  
20 Vehicle Code section 20002(a) (hit and run), a misdemeanor, with a prior conviction of Vehicle  
21 Code section 23152(b) on October 17, 2012, as more particularly set forth below in paragraph  
22 3(e). The circumstances of the crime were that on or about September 12, 2015, Respondent  
23 drove a vehicle with a blood alcohol level of .11%, collided with another vehicle, and then fled  
24 the scene.

25 b. Respondent violated Business and Professions Code section 4301(h), on the grounds  
26 of unprofessional conduct, in that Respondent consumed alcohol on or about September 12, 2015,  
27 to the extent or in a manner as to be dangerous or injurious to oneself and the public, as more  
28 particularly set forth above in paragraph 3(a).

1 c. Respondent violated Business and Professions Code section 4301(k), on the grounds  
2 of unprofessional conduct, in that Respondent was convicted of more than one misdemeanor  
3 involving the use, consumption, and self administration of alcohol, as more particularly set forth  
4 above in paragraph 3(a).

5 d. Respondent violated Business and Professions Code section 4301(f), on the grounds  
6 of unprofessional conduct, in that he committed acts involving dishonesty, fraud, deceit, or  
7 corruption, when on or about September 12, 2015, Respondent fled the scene of an accident, as  
8 more particularly set forth above in paragraph 3(a).

9 e. On or about November 29, 2012, the Board issued Citation No. CI 2012 53155 to  
10 Respondent for violating Business and Professions Code sections 4301(f) (acts of moral turpitude,  
11 dishonesty, fraud, deceit, or corruption); 4301(h) (administering to oneself, any controlled  
12 substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner  
13 as to be dangerous or injurious to oneself); 4301(k) (conviction of more than one misdemeanor or  
14 any felony involving the use, consumption, or self-administration of any dangerous drug or  
15 alcoholic beverage); and 4301(l) (conviction of a crime substantially related to the practice of  
16 pharmacy), in that on or about October 17, 2012, in the case of *People v. Richard Leroy Church*  
17 (Super. Ct. Colusa County, Case No. CR54292), Respondent was convicted by the Court on his  
18 plea of nolo contendere of violating Penal Code section 273a(a) (child endangerment), a  
19 misdemeanor, and Vehicle Code section 23152(b) (driving with a blood alcohol level of .08% or  
20 higher), a misdemeanor, with a prior conviction of Vehicle Code section 23152(a) (driving a  
21 vehicle while under the influence of alcohol) on July 23, 2003. The circumstances of the crime  
22 were that on or about July 7, 2012, Respondent drove a vehicle while having a blood alcohol level  
23 of .15% and was swerving in traffic, going over ninety miles per hour, and failing to yield to  
24 police officers, all while having a minor child in the vehicle.

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ORDER

IT IS SO ORDERED that Pharmacy Technician License Number TCH 26632, heretofore issued to Respondent Richard L. Church, 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 December 30, 2016.

It is so ORDERED on November 30, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

12482186.DOC  
SA2016100767

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(RICHARD L. CHURCH)

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 PHILLIP L. ARTHUR  
Deputy Attorney General  
4 State Bar No. 238339  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-0032  
Facsimile: (916) 327-8643  
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. 5759

13 **RICHARD LEROY CHURCH**  
6703 22nd Street  
14 Rio Linda, CA 95673

**ACCUSATION**

15 **Pharmacy Technician License No. TCH**  
26632

16 Respondent.

17  
18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about August 3, 1998, the Board issued Pharmacy Technician License Number  
23 TCH 26632 to Richard Leroy Church ("Respondent"). The license was in full force and effect at  
24 all times relevant to the charges brought herein and will expire on April 30, 2018, unless renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 4300 provides, in pertinent part, that  
27 every license issued by the Board is subject to discipline, including suspension or revocation.

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4. Code section 4301.1 states:

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

**STATUTORY PROVISIONS**

5. Code section 4301 states, in pertinent part:

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

...

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

...

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

...

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

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under



1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
3 dismissing the accusation, information, or indictment. . . .

3 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Conviction of a Crime)**

10 7. Respondent is subject to discipline pursuant to Code section 4301(i), on the  
11 grounds of unprofessional conduct, in that on or about November 30, 2015, in the case of *People*  
12 *v. Richard Leroy Church*, (Super. Ct. Sacramento County, Case No. 15M13662); Respondent was  
13 convicted by the Court on his plea of nolo contendere of violating Vehicle Code section 23152(b)  
14 (driving a vehicle while having a blood alcohol level of .08% or higher), a misdemeanor, and  
15 Vehicle Code section 20002(a) (hit and run), a misdemeanor, with a prior conviction of Vehicle  
16 Code section 23152(b) on October 17, 2012, as more particularly set forth below in paragraph 11.  
17 The circumstances of the crime were that on or about September 12, 2015, Respondent drove a  
18 vehicle with a blood alcohol level of .11%, collided with another vehicle, and then fled the scene.  
19 The crime is substantially related to the qualifications, functions, or duties of a pharmacy  
20 technician.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Dangerous Use of Alcohol)**

23 8. Respondent is subject to discipline pursuant to Code section 4301(h), on the  
24 grounds of unprofessional conduct, in that Respondent consumed alcohol on or about  
25 September 12, 2015, to the extent or in a manner as to be dangerous or injurious to oneself and to  
26 the public, as more particularly set forth above in paragraph 7.

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**THIRD CAUSE FOR DISCIPLINE**

**(Convictions Involving the Use of Alcohol)**

9. Respondent is subject to discipline pursuant to Code section 4301(k), on the grounds of unprofessional conduct, in that Respondent was convicted of more than one misdemeanor involving the use, consumption, and self administration of alcohol, as more particularly set forth in paragraph 7.

**FOURTH CAUSE FOR DISCIPLINE**

**(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

10. Respondent is subject to discipline pursuant to Code section 4301(f), on the grounds of unprofessional conduct, in that he committed acts involving dishonesty, fraud, deceit, or corruption, when on or about September 12, 2015, Respondent fled the scene of an accident, as more particularly set forth above in paragraph 7.

**FACTORS IN AGGRAVATION**

11. On or about November 29, 2012, the Board issued Citation No. CI 2012 53155 to Respondent for violating Code sections 4301(f) (acts of moral turpitude, dishonesty, fraud, deceit, or corruption); 4301(h) (administering to oneself, any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself); 4301(k) (conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage); and 4301(l) (conviction of a crime substantially related to the practice of pharmacy), in that on or about October 17, 2012, in the case of *People v. Richard Leroy Church*, (Super. Ct. Colusa County, Case No. CR54292), Respondent was convicted by the Court on his plea of nolo contendere of violating Penal Code section 273a(a) (child endangerment), a misdemeanor, and Vehicle Code section 23152(b) (driving with a blood alcohol level of .08% or higher), a misdemeanor, with a prior conviction of Vehicle Code section 23152(a) (driving a vehicle while under the influence of alcohol) on July 23, 2003<sup>1</sup>. The circumstances of the crime were that on

<sup>1</sup> On or about July 23, 2003, in the case of *People v. Richard Leroy Church*, (Super. Ct. Sacramento County, Case No. 03T00219), Respondent was convicted by the Court on his plea of  
(continued...)

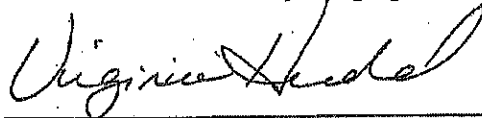
1 or about July 7, 2012, Respondent drove a vehicle while having a blood alcohol level of .15% and  
2 was swerving in traffic, going over ninety miles per hour, and failing to yield to police officers,  
3 all while having a minor child in the vehicle. The Board assessed a fine in the amount of \$600.  
4 Respondent paid the fine in full on March 14, 2014.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacy Technician Registration Number TCH 26632,  
9 issued to Richard Leroy Church;
- 10 2. Ordering Richard Leroy Church to pay the Board of Pharmacy the reasonable costs of  
11 investigation and enforcement of this case, pursuant to Business and Professions Code section  
12 125.3; and,
- 13 3. Taking such other and further action as deemed necessary and proper.

14  
15 DATED: 8/15/16



16 VIRGINIA HEROLD  
17 Executive Officer  
18 Board of Pharmacy  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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(...continued)  
no contest of violating Vehicle Code section 23152(a) (driving a vehicle while under the  
influence of alcohol), a misdemeanor. The circumstances of the crime were that Respondent  
drove a vehicle with a blood alcohol level of .13%.