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

In the Matter of the Accusation Against:
DENISE CHRISTINE EAVES
11273 Demaret Drive
Beaumont, CA 92223

Pharmacy Technician Registration Number
No. TCH 50501

Respondent.

Case No. 3815

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 15, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3815 against Denise Christine Eaves (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 25, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician Registration Number No. TCH 50501 to Respondent. The Pharmacy Technician Registration Number was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2011, unless renewed.

3. On or about November 19, 2010, Respondent was served by Certified and First Class Mail copies of the Accusation No. 3815, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 136 and 4100 and title 16, California Code of Regulations section 1704, is required to be
3 reported and maintained with the Board, which was and is:

4 11273 Demaret Drive
5 Beaumont, CA 92223.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124.

9 5. On or about December 2, 2010, the aforementioned documents were returned by the
10 U.S. Postal Service marked "Refused."

11 6. Government Code section 11506 states, in pertinent part:

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

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3815.

19 8. California Government Code section 11520 states, in pertinent part:

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

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
27 as well as taking official notice of all the investigatory reports, exhibits and statements contained
28 therein on file at the Board's offices regarding the allegations contained in Accusation No. 3815,
finds that the charges and allegations in Accusation No. 3815, are separately and severally true
and correct by clear and convincing evidence.

1 Respondent fled the scene of a car accident after her vehicle struck another vehicle on March 30,
2 2009.

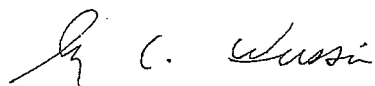
3 ORDER

4 IT IS SO ORDERED that Pharmacy Technician Registration Number No. TCH 50501,
5 heretofore issued to Respondent Denise Christine Eaves, is revoked.

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

10 This Decision shall become effective on April 15, 2011.

11 It is so ORDERED March 16, 2011.

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STANLEY C. WEISSER, BOARD PRESIDENT
15 FOR THE BOARD OF PHARMACY
16 DEPARTMENT OF CONSUMER AFFAIRS

17 70419752.DOC
18 DOJ Matter ID:SD2010702173

19 Attachment:
20 Exhibit A: Accusation

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Exhibit A

Accusation

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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Deputy Attorney General
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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:

Case No. 3815

12 **DENISE CHRISTINE EAVES**
13 **11273 Demaret Drive**
14 **Beaumont, CA 92223**

ACCUSATION

15 **Pharmacy Technician Registration Number**
16 **No. TCH 50501**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 25, 2003, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 50501 to Denise Christine Eaves (Respondent). The Pharmacy
25 Technician Registration Number was in full force and effect at all times relevant to the charges
26 brought herein and will expire on January 31, 2011, unless renewed.
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1 and the board may inquire into the circumstances surrounding the commission of
2 the crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
question.

3 As used in this section, "license" includes "certificate," "permit,"
4 "authority," and "registration."

5 9. Section 4301 of the Code states:

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

9

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

13

14 (h) The administering to oneself, of any controlled substance, or the use of
15 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
16 dangerous or injurious to oneself, to a person holding a license under this chapter,
17 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.

18

19 (l) The conviction of a crime substantially related to the qualifications,
20 functions, and duties of a licensee under this chapter. The record of conviction of
21 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
22 state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction
23 shall be conclusive evidence only of the fact that the conviction occurred. The
board may inquire into the circumstances surrounding the commission of the
24 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
25 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
26 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
27 judgment of conviction has been affirmed on appeal or when an order granting
probation is made suspending the imposition of sentence, irrespective of a
28 subsequent order under Section 1203.4 of the Penal Code allowing the person to

1 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
2 the verdict of guilty, or dismissing the accusation, information, or indictment.

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

4

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

- 9 (1) Nature and severity of the act(s) or offense(s).
- 10 (2) Total criminal record.
- 11 (3) The time that has elapsed since commission of the act(s) or offense(s).
- 12 (4) Whether the licensee has complied with all terms of parole, probation,
13 restitution or any other sanctions lawfully imposed against the licensee.
- 14 (5) Evidence, if any, of rehabilitation submitted by the licensee.

15 11. California Code of Regulations, title 16, section 1770, states:

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

23 **COST RECOVERY**

24 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
25 the administrative law judge to direct a licentiate found to have committed a violation or
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
27 and enforcement of the case.
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1 FIRST CAUSE FOR DISCIPLINE

2 (February 11, 2010 Conviction for DUI on March 27, 2009)

3 13. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the
4 Code in that she was convicted of crime that is substantially related to the qualifications, duties,
5 and functions of a pharmacy technician. The circumstances are as follows:

6 a. On or about February 11, 2010, in a criminal proceeding entitled *The People of*
7 *the State of California v. Denise Christine Eaves*, in San Bernardino County Superior Court case
8 number TSB902393, Respondent was convicted on her plea of guilty for violation of Vehicle
9 Code section 23152(b), driving with a blood alcohol content of .08 percent or more, a
10 misdemeanor.

11 b. As a result of her conviction, Respondent was placed on summary probation
12 for 3 years, ordered to serve 17 days in jail, pay all applicable fines, fees and restitution and to
13 enroll and complete a nine month First Offender Alcohol Program.

14 c. The circumstances that led to the conviction were that on or about March 27,
15 2009, an officer from the California Highway Patrol observed Respondent's vehicle driving at a
16 speed of greater than 80 mph, following vehicles to the front less than one car length away and
17 changing lanes rapidly while traveling eastbound on SR-210 west of Highland Avenue. The
18 officer activated his lights but the vehicle did not respond to them. The vehicle responded to his
19 siren and pulled to the right shoulder in an unsafe location. The officer advised the driver of the
20 vehicle on the public address system to exit the freeway and the vehicle began to drive
21 approximately 40 mph on the shoulder and stopped on the shoulder again. The officer for a
22 second time asked the driver to exit the freeway and the vehicle drove on the shoulder and
23 stopped again. The officer for a third time asked the driver to exit the freeway, which it did at
24 Baseline Road. After the officer initiated a traffic stop, the driver of the high speed and unsafe
25 lane changing vehicle was identified as Respondent. The officer observed that Respondent's eyes
26 were red and droopy and that she had a strong odor of an alcoholic beverage emitting from within
27 her vehicle. When asked by the officer how much she had to drink, Respondent admitted
28 "enough." When she stepped out of her vehicle, she told the officer to "just take me to jail." Her

1 speech was extremely slurred and she was not wearing any shoes. Respondent admitted to the
2 officer that she had consumed 3 glasses of wine prior to driving and that she felt "buzzed." The
3 officer attempted to explain and demonstrate the field sobriety tests; Respondent performed
4 poorly on one of the tests and said "just take me to jail." Based on Respondent's inability to
5 successfully perform one of the field sobriety tests and her objective symptoms, the officer
6 arrested Respondent for driving under the influence. Upon arrest, Respondent elected to take a
7 breath test and her results were .23 percent and .23 percent at 2322 hours and 2325 hours
8 respectively.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(February 11, 2010 Conviction for Hit and Run on March 30, 2009)**

11 14. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the
12 Code in that she was convicted of crime that is substantially related to the qualifications, duties,
13 and functions of a pharmacy technician. The circumstances are as follows:

14 a. On or about February 11, 2010, in a criminal proceeding entitled *The People of*
15 *the State of California v. Denise Christine Eaves*, in San Bernardino County Superior Court Case
16 No. TSB902000, Respondent was convicted on her plea of guilty for violation of Vehicle Code
17 section 20002, hit and run with property damage, a misdemeanor.

18 b. As a result of her conviction, Respondent was placed on conditional probation
19 for a period of 3 years, ordered to serve 14 days in jail and to possibly pay restitution.

20 c. The facts that led to the conviction were that on or about March 30, 2009,
21 Respondent's vehicle was traveling southbound on Shasta Avenue in Highland, California.
22 Respondent's vehicle did not stop at the intersection of Shasta Avenue and 6th Street, made an
23 eastbound turn onto 6th Street and collided with another vehicle. Respondent continued
24 eastbound on 6th Street, failing to stop after the accident. A witness provided the license plate
25 number for Respondent's vehicle and Respondent admitted to her friend and the police that she
26 had hit the other vehicle. Respondent was cited for violating Vehicle Code section 20002, hit and
27 run, a misdemeanor.

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