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6	BEFORE THE BOARD OF PHARMACY		
7	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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9	In the Matter of the Accusation Against:	Case No. 3815	
10	DENISE CHRISTINE EAVES 11273 Demaret Drive	DEFAIL F DECICION AND ODDED	
11	Beaumont, CA 92223	DEFAULT DECISION AND ORDER	
12	Pharmacy Technician Registration Number No. TCH 50501	[Gov. Code, §11520]	
13	No. 1CH 50501		
14	Respondent.		
15	Kespondeni.		
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17	FINDING	<u>S OF FACT</u>	
18	1. On or about November 15, 2010, Co	mplainant Virginia Herold, in her official	
19	capacity as the Executive Officer of the Board of	f Pharmacy, Department of Consumer Affairs,	
20	filed Accusation No. 3815 against Denise Christ	ine Eaves (Respondent) before the Board of	
21	Pharmacy. (Accusation attached as Exhibit A.)		
22	2. On or about August 25, 2003, the Bo	oard of Pharmacy (Board) issued Pharmacy	
23	Technician Registration Number No. TCH 5050	1 to Respondent. The Pharmacy Technician	
24	Registration Number was in full force and effect at all times relevant to the charges brought		
25	herein and will expire on January 31, 2011, unle	ss renewed.	
26	3. On or about November 19, 2010, Re	spondent was served by Certified and First Class	
27	Mail copies of the Accusation No. 3815, Statement to Respondent, Notice of Defense, Request		
28	for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and		
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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 Beaumont, CA 92223.	
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 December 2, 2010, the aforementioned documents were returned by the	
9	U.S. Postal Service marked "Refused."	
10	6. Government Code section 11506 states, in pertinent part:	
11	(c) The respondent shall be entitled to a hearing on the merits if the respondent	
12 13	files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion	
14	<ul><li>may nevertheless grant a hearing.</li><li>7. Respondent failed to file a Notice of Defense within 15 days after service upon her of</li></ul>	
15	the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3815.	
16	8. California Government Code section 11520 states, in pertinent part:	
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18	or upon other evidence and affidavits may be used as evidence without any notice to	
19	respondent.	
20	9. Pursuant to its authority under Government Code section 11520, the Board finds	
21	Respondent is in default. The Board will take action without further hearing and, based on the	
22	relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,	
23	as well as taking official notice of all the investigatory reports, exhibits and statements contained	
24 25	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	
26 27	and correct by clear and convincing evidence.	
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DEFAULT DECISION AND ORDER

10. Taking official notice of its own internal records, pursuant to Business and 1 2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement is \$1,407.50 as of January 12, 2010. 3 DETERMINATION OF ISSUES 4 1. Based on the foregoing findings of fact, Respondent Denise Christine Eaves has 5 subjected her Pharmacy Technician Registration Number No. TCH 50501 to discipline. 6 2. The agency has jurisdiction to adjudicate this case by default. 7 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician 8 Registration Number based upon the following violations alleged in the Accusation which are 9 supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this 10 case: 11 Respondent is subject to disciplinary action under Business and Professions Code a. 12 13 sections 490 and 4301(l) in that on or about February 11, 2010, in a criminal proceeding entitled The People of the State of California v. Denise Christine Eaves, in San Bernardino Superior Court 14 case number TSB902393, Respondent was convicted on her plea of guilty for violation of Vehicle 15 Code section 23152(b), driving with a blood alcohol content of .08 percent or more, a 16 misdemeanor. 17 b. Respondent is subject to disciplinary action under Business and Professions Code 18 sections 490 and 4301(1) in that on or about February 11, 2010, in a criminal proceeding entitled 19 The People of the State of California v. Denise Christine Eaves, in San Bernardino Superior Court 20 case number TSB902000, Respondent was convicted on her plea of guilty for violation of Vehicle 21 Code section 20002, hit and run with property damage, a misdemeanor. 22 Respondent is subject to disciplinary action under Business and Professions Code 23 c. section 4301(h) in that Respondent used alcohol to an extent that dangerous to herself or others 24 on March 27, 2009 when she drove under the influence of alcohol with a blood alcohol content of 25 .08 percent or more. 26 Respondent is subject to disciplinary action under Business and Professions Code 27 d. section 4301(f) in that Respondent committed an act involving dishonesty or deceit, namely, 28 3

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.	
12	Ry C. Wassi	
13	A C. Euron	
14	STANLEY C. WEISSER, BOARD PRESIDENT	
15	FOR THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
16		
17	70419752.DOC DOJ Matter ID:SD2010702173	
18	Attachment:	
19	Exhibit A: Accusation	
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DEFAULT DECISION AND ORDER

## Exhibit A

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Accusation

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		· · · · · · · · · · · · · · · · · · ·	
1	EDMUND G. BROWN JR. Attorney General of California		
2	LINDA K. SCHNEIDER Supervising Deputy Attorney General		
3	DESIREE I. KELLOGG Deputy Attorney General State Bar No. 126461		
5	110 West "A" Street, Suite 1100 San Diego, CA 92101		
6	P.O. Box 85266 San Diego, CA 92186-5266		
7	Telephone: (619) 645-2996 Facsimile: (619) 645-2061		
8	Attorneys for Complainant		
9	BEFORE THE BOARD OF PHARMACY		
10		CONSUMER AFFAIRS CALIFORNIA	
11		Case No. 3815	
12	In the Matter of the Accusation Against: <b>DENISE CHRISTINE EAVES</b>	Case 110. 3013	
13	11273 Demaret Drive Beaumont, CA 92223	ACCUSATION	
14	Dominioni, Cir 94420		
15	Pharmacy Technician Registration Number No. TCH 50501		
16	Respondent.		
1 <u>7</u> 18			
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20	Complainant alleges:		
21	PARTIES		
22	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
23	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
24	2. On or about August 25, 2003, the Board of Pharmacy issued Pharmacy Technician		
25	Registration Number TCH 50501 to Denise Christine Eaves (Respondent). The Pharmacy		
26	Technician Registration Number was in full force and effect at all times relevant to the charges		
27	brought herein and will expire on January 31, 2011, unless renewed.		
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1	JURISDICTION	
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 118, subdivision (b), of the Code provides that the suspension, expiration,	
6	surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a	
7	disciplinary action during the period within which the license may be renewed, restored, reissued	
8	or reinstated.	
9	5. Section 4300, subdivision (a) of the Code states "Every license issued may be	
10	suspended or revoked."	
11	STATUTORY/REGULATORY PROVISIONS	
12	6. Section 482 of the Code states:	
13	Each board under the provisions of this code shall develop criteria to	
14	evaluate the rehabilitation of a person when:	
15	(a) Considering the denial of a license by the board under Section 480; or	
16	(b) Considering suspension or revocation of a license under Section 490.	
17 18	Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.	
19	7. Section 490 of the Code provides, in pertinent part, that a board may suspend or	
20	revoke a license on the ground that the licensee has been convicted of a crime substantially	
21	related to the qualifications, functions, or duties of the business or profession for which the	
22	license was issued.	
23	8. Section 493 of the Code states:	
24		
25	Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or	
26	to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has	
· 27	been convicted of a crime substantially related to the qualifications, functions, and	
28	duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,	
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	Accusation	

## Accusation

and the board may inquire into the circumstances surrounding the commission of 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.

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

9. Section 4301 of the Code states:

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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.

(1) 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 Section 1203.4 of the Penal Code allowing the person to

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1	withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.		
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3	10. California Code of Regulations, title 16, section 1769, states:		
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5	(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been		
6	convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:		
7	(1) Nature and severity of the act(s) or offense(s).		
8	(2) Total criminal record.		
9	(3) The time that has elapsed since commission of the act(s) or offense(s).		
10	(4) Whether the licensee has complied with all terms of parole, probation,		
11	restitution or any other sanctions lawfully imposed against the licensee.		
12	(5) Evidence, if any, of rehabilitation submitted by the licensee.		
13	11. California Code of Regulations, title 16, section 1770, states:		
14	For the purpose of denial, suspension, or revocation of a personal or facility		
15	license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to		
16	the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to		
17	perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.		
18	COST RECOVERY		
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20	12. Section 125.3 of the Code provides, in pertinent part, that the Board may request		
21	the administrative law judge to direct a licentiate found to have committed a violation or		
22	violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation		
23	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 <i>The People of</i>
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 eye
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
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speech was extremely slurred and she was not wearing any shoes. Respondent admitted to the officer that she had consumed 3 glasses of wine prior to driving and that she felt "buzzed." The officer attempted to explain and demonstrate the field sobriety tests; Respondent performed poorly on one of the tests and said "just take me to jail." Based on Respondent's inability to successfully perform one of the field sobriety tests and her objective symptoms, the officer arrested Respondent for driving under the influence. Upon arrest, Respondent elected to take a breath test and her results were .23 percent and .23 percent at 2322 hours and 2325 hours respectively.

## SECOND CAUSE FOR DISCIPLINE

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

14. Respondent is subject to disciplinary action under sections 490 and 4301(1) of the Code in that she was convicted of crime that is substantially related to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

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

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

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

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1	THIRD CAUSE FOR DISCIPLINE	
2	(Unprofessional Conduct – Use of Alcohol in a Manner Dangerous to Self or Others)	
.3	15. Respondent is subject to disciplinary action under section 4301(h) of the Code in that	
4	Respondent used alcohol to an extent that was dangerous to herself or others on March 27, 2009,	
5	as is set forth above in paragraph 13, which is incorporated herein by reference as though fully set	
6	forth herein.	
7	FOURTH CAUSE FOR DISCIPLINE	
8	(Unprofessional Conduct-Commission of Act Involving Dishonesty or Deceit)	
9	16. Respondent is subject to disciplinary action under section 4301(f) of the Code in that	
10	Respondent committed an act involving dishonesty or deceit, namely, Respondent fled the scene	
11	of a car accident after her vehicle struck another vehicle, as is set forth above in paragraph 14,	
12	which is incorporated herein by reference as though fully set forth herein.	
13	PRAYER	
14	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
15	and that following the hearing, the Board of Pharmacy issue a decision:	ł
16	1. Revoking or suspending Pharmacy Technician Registration Number TCH 50501,	
17	issued to Denise Christine Eaves;	
18	2. Ordering Denise Christine Eaves to pay the Board of Pharmacy the reasonable costs	
19	of the investigation and enforcement of this case, pursuant to Business and Professions Code	
20	section 125.3;	
21	3. Taking such other and further action as deemed necessary and proper.	
22	DATED: 11/15/10 ()ugine teil	
23	VIRGINIA HEROLD Executive Officer	
24	Board of Pharmacy Department of Consumer Affairs	
25	State of California Complainant	
26	Companiant	
27	SD2010702173 70374176.doc	
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	7 Accusation	+
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