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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. 4361

13 **CHARLIE GUZMAN**

DEFAULT DECISION AND ORDER

14 1650 Sunflower Ave
15 Glendora, CA 91740

[Gov. Code, §11520]

16 **Pharmacy Technician Registration No. TCH**
17 **115741**

Respondent.

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19 **FINDINGS OF FACT**

20 1. On or about January 24, 2013, Complainant Virginia K. Herold, in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
22 filed Accusation No. 4361 against Charlie Guzman (Respondent) before the Board of Pharmacy.
23 (Accusation attached as Exhibit A.)

24 2. On or about October 26, 2011, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 115741 to Respondent. The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 4361
27 and will expire on December 31, 2012, unless renewed. This lapse in licensure, however,
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1 pursuant to Business and Professions Code section 118(b) does not deprive the [Board] of its authority to institute or continue this disciplinary proceeding.

2
3 3. On or about May 7, 2013, Respondent was served by Certified and First Class Mail
4 copies of the Accusation No. 4361, Statement to Respondent, Notice of Defense, Request for
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
6 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
7 is required to be reported and maintained with the Board. Respondent's address of record was
8 and is:

9 1650 Sunflower Ave
10 Glendora, CA 91740.

11 4. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 5. Government Code section 11506 states, in pertinent part:

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

20 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
22 4361.

23 7. California Government Code section 11520 states, in pertinent part:

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

28 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
taking official notice of all the investigatory reports, exhibits and statements contained therein on

file at the Board's offices regarding the allegations contained in Accusation No. 4361, finds that the charges and allegations in Accusation No. 4361, are separately and severally, found to be true and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement are \$1,545.00 as of June 6, 2013.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Charlie Guzman has subjected his Pharmacy Technician Registration No. TCH 115741 to discipline.

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

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:

a. Business & Professions Code sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a pharmacy technician.

The circumstances are as follows:

b. On April 13, 2012, after pleading nolo contendere, Respondent was convicted of one felony count of violating Penal Code section 192, subdivision (c)(1) [vehicular manslaughter with gross negligence], in Los Angeles Superior Court Case No. KA09717, *People v. Charlie Guzman*.

The circumstances underlying this crime are that, on April 28, 2011, Respondent was driving recklessly, causing his vehicle to collide with another vehicle, resulting in injuries to more than one passenger of the other vehicle, and the death of another passenger.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 115741, heretofore issued to Respondent Charlie Guzman, 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 October 7, 2013.

It is so **ORDERED** ON September 6, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY C. WEISSER
Board President

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DOJ Matter ID: LA2012507231

Attachment: Exhibit A: Accusation

Exhibit A

Accusation

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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. 4361

13 **CHARLIE GUZMAN**
1650 Sunflower Ave
Glendora, CA 91740

A C C U S A T I O N

14 Pharmacy Technician Registration
No. TCH 115741

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about October 26, 2011, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 115741 to Charlie Guzman (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on December 31, 2012, unless 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.

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STATUTORY PROVISIONS

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2 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a license
3 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
4 within which the license may be renewed, restored, reissued or reinstated.

5 5. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
13 of the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

20 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
21 subject to discipline, including suspension or revocation.

22 7. Section 4301 states, in pertinent part:

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

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1 (1) The conviction of a crime substantially related to the qualifications, functions, and
2 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
4 substances or of a violation of the statutes of this state regulating controlled substances or
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
6 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
7 The board may inquire into the circumstances surrounding the commission of the crime, in order
8 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
9 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
10 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
11 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
12 of this provision. The board may take action when the time for appeal has elapsed, or the
13 judgment of conviction has been affirmed on appeal or when an order granting probation is made
14 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
15 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
16 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
17 indictment."

18 REGULATORY PROVISIONS

19 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:
20 "For the purpose of denial, suspension, or revocation of a personal or facility license
21 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
22 crime or act shall be considered substantially related to the qualifications, functions or duties of a
23 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
24 licensee or registrant to perform the functions authorized by his license or registration in a manner
25 consistent with the public health, safety, or welfare."

26 COST RECOVERY

27 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
28 law judge to direct a licentiate found to have committed a violation or violations of the licensing

1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

3 CAUSE FOR DISCIPLINE

4 (Conviction of a Substantially Related Crime)

5 10. Respondent is subject to disciplinary action under section 4301, subdivision (l) and
6 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
7 Respondent was convicted of a crime substantially related to the qualifications, functions, and
8 duties of a pharmacy technician. On or about April 13, 2012, after pleading nolo contendere,
9 Respondent, was convicted of one felony count of violating Penal Code section 192, subdivision
10 (c)(1) [vehicular manslaughter with gross negligence] and five misdemeanor counts of Vehicle
11 Code section 23104, subdivision (a) [reckless driving with bodily injury] in the criminal
12 proceeding entitled *The People of the State of California v. Charlie Guzman* (Super. Ct. Los
13 Angeles County, 2012, No. KA097171.) The Court sentenced Respondent to serve 2 years in
14 State Prison as to count one and 150 days in Los Angeles County Jail as to counts 2 through 6,
15 probation was denied. The circumstances surrounding the conviction are that on or about April
16 28, 2011, during an investigation of a traffic collision, by the California Highway Patrol,
17 Respondent was contacted. Respondent travelled at an unsafe speed, failed to maintain his car
18 within his lane, making an unsafe lane change, and collided into another vehicle causing it to hit
19 the center divider and overturn several times. Passengers were transported to the hospital for
20 treatment. One of the passengers was transported to Foothill Presbyterian Hospital where she was
21 pronounced deceased.

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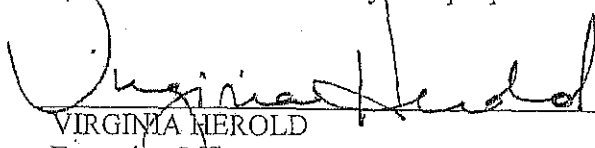
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 115741, issued to Respondent;
2. Ordering Charlie Guzman to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary, and proper.

DATED: 1/24/13


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

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