

1
2
3
4
5
6
7
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. 4404

13 **JULIE ANN FEDERICO**
14 **1627 Homewood Drive**
15 **Altadena, CA 91001**
16 **Pharmacy Technician Registration No. TCH**
17 **95243**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about August 14, 2013, Complainant Virginia Herold, in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
22 Accusation No. 4404 against Julie Ann Federico (Respondent) before the Board of Pharmacy.
23 (Accusation attached as Exhibit A.)

24 2. On or about January 14, 2010, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 95243 to Respondent. The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 4404
27 and expired on March 31, 2013.
28

1 3. On or about August 27, 2013, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4404, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record was and is:

7 1627 Homewood Drive
8 Altadena, CA 91001.

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. Government Code section 11506 states, in pertinent part:

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

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4404.

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

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

25 8. Pursuant to its authority under Government Code section 11520, the Board finds
26 Respondent is in default. The Board will take action without further hearing and, based on the
27 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
28 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. 4404, finds that
the charges and allegations in Accusation No. 4404, are separately and severally, found to be true
and correct by clear and convincing evidence.

1 9. Taking official notice of its own internal records, pursuant to Business and
2 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
3 and Enforcement is \$2,747.50 as of November 11, 2013.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Julie Ann Federico has subjected
6 her Pharmacy Technician Registration No. TCH 95243 to discipline.

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

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

11 FIRST CAUSE FOR DISCIPLINE

12 (Convictions of Substantially-Related Crimes)

13 4. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
14 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
15 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
16 related to the qualifications, functions or duties of a registered pharmacy technician which to a
17 substantial degree evidence her present or potential unfitness to perform the functions authorized
18 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

19 a. On or about June 17, 2011, after pleading nolo contendere, Respondent was convicted
20 of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving
21 while having 0.08% or more, by weight, of alcohol in the blood], in the criminal proceeding
22 entitled The People of the State of California v. Julie Ann Federico (Super. Ct. Los Angeles
23 County, 2011, No. 1JB03722). The court sentenced Respondent to serve 96 hours in jail, placed
24 her on probation for a period of 4 years, and fined her. The circumstances surrounding the
25 conviction are that on or about March 12, 2011, a California Highway Patrol Officer, while on
26 duty, during a routine traffic stop, stopped Respondent for failing to proceed through an
27 intersection on a circular green signal, in violation of Vehicle Code section 21451, subdivision
28 (a). The officer made contact with the Respondent and smelled an odor of an alcoholic beverage

1 emitting from the inside of the vehicle. The officer observed Respondent to have red, watery
2 eyes, slow lethargic movement, and slow thick speech. The Respondent admitted to the officer
3 that she had, "One drink". The Respondent agreed to a series of Field Sobriety Tests which she
4 failed to complete satisfactorily. Respondent subsequently agreed to two breath samples with
5 results of .29% BAC and .27% BAC.

6 b. On or about October 28, 2003, after pleading nolo contendere, Respondent was
7 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
8 [driving while having 0.08% or more, by weight, of alcohol in the blood], in the criminal
9 proceeding entitled The People of the State of California v. Julie Ann Federico (Super. Ct. Santa
10 Barbara County, 2003, No. 1108910). The court sentenced Respondent to serve 8 days in jail,
11 placed her on probation for a period of 3 years, and fined her. The circumstances surrounding the
12 conviction are that on or about September 28, 2003, Respondent did unlawfully, drive a vehicle,
13 while having 0.08% or more, by weight, of alcohol in her blood.

14 SECOND CAUSE FOR DISCIPLINE

15 (Dangerous Use of Alcohol)

16 5. Respondent is subject to disciplinary action under sections 4300 and 4301,
17 subdivision (h), on the grounds of unprofessional conduct, in that Respondent did use an
18 alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself or others
19 when she was found to be under the influence of alcohol while driving a vehicle on March 12,
20 2011, and September 28, 2003. Complainant refers to, and by this reference incorporates, the
21 allegations set forth above in paragraph 4, subparagraphs (a) and (b), inclusive, as though set
22 forth fully.

23 THIRD CAUSE FOR DISCIPLINE

24 (Convictions Involving Alcohol)

25 6. Respondent is subject to disciplinary action under sections 4300 and 4301,
26 subdivision (k), on the grounds of unprofessional conduct, in that Respondent was convicted of
27 more than one misdemeanor, involving the use, consumption, or self-administration of any
28 dangerous drug or alcoholic beverage, or any combination of those substances, when she was

1 found to be driving under the influence of an alcoholic beverage on March 12, 2011 and
2 September 28, 2003 and convicted for violating Vehicle Code section 23152, subdivision (b).
3 Complainant refers to, and by this reference incorporates, the allegations set forth above in
4 paragraph 4, subparagraphs (a) and (b), inclusive, as though set forth fully.

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOURTH CAUSE FOR DISCIPLINE

(Violation of Pharmacy Act)

7. Respondent is subject to disciplinary action under section 4301, subdivision (o), on
the grounds of unprofessional conduct, in that Respondent was convicted of crimes that violated
the Pharmacy Act. Complainant refers to, and by this reference incorporates, the allegations set
forth above in paragraphs 4 through 6, inclusive, as though set forth fully.

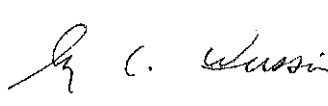
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 95243, heretofore
issued to Respondent Julie Ann Federico, is revoked.

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 February 18, 2014.

It is so ORDERED ON January 17, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA


By _____
STAN C. WEISSER
Board President

DEFAULT AND ORDER.DOCX
DOJ Matter ID:LA2012507674

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804

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. 4404

13 **JULIE ANN FEDERICO**
1627 Homewood Drive
Altadena, CA 91001

ACCUSATION

14 Pharmacy Technician Registration No. TCH
15 95243

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
22 2. On or about January 14, 2010, the Board issued Pharmacy Technician Registration
23 No. TCH 95243 to Julie Ann Federico (Respondent). The Pharmacy Technician Registration was
24 in full force and effect at all times relevant to the charges brought herein and expired on March
25 31, 2013, and has not been renewed.

26 **JURISDICTION**

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

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15
16
17
18
19
20
21
22
23
24
25
26
27
28

21
22
23
24
25
26
27
28

23
24
25
26
27
28

2

1 8. Section 4301 states, in pertinent part:

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

5

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

11

12 "(j) The violation of any of the statutes of this state, or any other state, or of the United
13 States regulating controlled substances and dangerous drugs.

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

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

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6

7 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by
10 the board or by any other state or federal regulatory agency."

11 REGULATORY PROVISION

12 9. California Code of Regulations, title 16, section 1770, states:

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

19 COST RECOVERY

20 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
21 law judge to direct a licensee found to have committed a violation or violations of the licensing
22 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
23 case.

24 FIRST CAUSE FOR DISCIPLINE

25 (Convictions of Substantially-Related Crimes)

26 11. Respondent is subject to disciplinary action under sections 490, 4300 and 4301,
27 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
28 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially

1 related to the qualifications, functions or duties of a registered pharmacy technician which to a
2 substantial degree evidence her present or potential unfitness to perform the functions authorized
3 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

4 a. On or about June 17, 2011, after pleading *nolo contendere*, Respondent was
5 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
6 [driving while having 0.08% or more, by weight, of alcohol in the blood], in the criminal
7 proceeding entitled *The People of the State of California v. Julie Ann Federico* (Super. Ct. Los
8 Angeles County, 2011, No. 1JB03722). The court sentenced Respondent to serve 96 hours in jail,
9 placed her on probation for a period of 4 years, and fined her. The circumstances surrounding the
10 conviction are that on or about March 12, 2011, a California Highway Patrol Officer, while on
11 duty, during a routine traffic stop, stopped Respondent for failing to proceed through an
12 intersection on a circular green signal, in violation of Vehicle Code section 21451, subdivision
13 (a). The officer made contact with the Respondent and smelled an odor of an alcoholic beverage
14 emitting from the inside of the vehicle. The officer observed Respondent to have red, watery
15 eyes, slow lethargic movement, and slow thick speech. The Respondent admitted to the officer
16 that she had, "One drink". The Respondent agreed to a series of Field Sobriety Tests which she
17 failed to complete satisfactorily. Respondent subsequently agreed to two breath samples with
18 results of .29% BAC and .27% BAC.

19 b. On or about October 28, 2003, after pleading *nolo contendere*, Respondent was
20 convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
21 [driving while having 0.08% or more, by weight, of alcohol in the blood], in the criminal
22 proceeding entitled *The People of the State of California v. Julie Ann Federico* (Super. Ct. Santa
23 Barbara County, 2003, No. 1108910). The court sentenced Respondent to serve 8 days in jail,
24 placed her on probation for a period of 3 years, and fined her. The circumstances surrounding the
25 conviction are that on or about September 28, 2003, Respondent did unlawfully, drive a vehicle,
26 while having 0.08% or more, by weight, of alcohol in her blood.

27 ///

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 12. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (h), on the grounds of unprofessional conduct, in that Respondent did use an
5 alcoholic beverage to the extent or in a manner as to be dangerous or injurious to oneself or others
6 when she was found to be under the influence of alcohol while driving a vehicle on March 12,
7 2011, and September 28, 2003. Complainant refers to, and by this reference incorporates, the
8 allegations set forth above in paragraph 11, subparagraphs (a) and (b), inclusive, as though set
9 forth fully.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Convictions Involving Alcohol)**

12 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
13 subdivision (k), on the grounds of unprofessional conduct, in that Respondent was convicted of
14 more than one misdemeanor, involving the use, consumption, or self-administration of any
15 dangerous drug or alcoholic beverage, or any combination of those substances, when she was
16 found to be driving under the influence of an alcoholic beverage on March 12, 2011 and
17 September 28, 2003 and convicted for violating Vehicle Code section 23152, subdivision (b).
18 Complainant refers to, and by this reference incorporates, the allegations set forth above in
19 paragraph 11, subparagraphs (a) and (b), inclusive, as though set forth fully.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Violation of Pharmacy Act)**

22 14. Respondent is subject to disciplinary action under section 4301, subdivision (o), on
23 the grounds of unprofessional conduct, in that Respondent was convicted of crimes that violated
24 the Pharmacy Act. Complainant refers to, and by this reference incorporates, the allegations set
25 forth above in paragraphs 11 through 13, inclusive, as though set forth fully.

26 **PRAAYER**

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

1 1. Revoking or suspending Pharmacy Technician Registration No. TCH 95243, issued
2 to Julie Ann Federico;

3 2. Ordering Julie Ann Federico to pay the Board the reasonable costs of the
4 investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3; and

6 3. Taking such other and further action as deemed necessary and proper.

7
8 DATED: _____

8/14/13



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

12 LA2012507674
13 accusation.rtf