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

In the Matter of the Accusation Against:

**DENISE ELIZABETH ADAMS
2180 Carlmont Drive 3
Belmont, CA 94002
Pharmacy Technician License No. TCH
56794**

Respondent.

Case No. 4438

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 19, 2012, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 4438 against Denise Elizabeth Adams (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about June 10, 2004, the Board issued Pharmacy Technician License No. TCH 56794 to Respondent. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 4438 and will expire on September 30, 2013, unless renewed.
3. On or about December 3, 2012, Respondent was served by Certified and First Class

1 Mail copies of the Accusation No. 4438, Statement to Respondent, Notice of Defense, Request
2 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
3 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
4 section 4100, is required to be reported and maintained with the Board. Respondent's address of
5 record was and is: 2180 Carlmont Drive 3, Belmont, CA 94002.

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. Government Code section 11506 states, in pertinent part:

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4438.

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

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

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 4438, finds that
27 the charges and allegations in Accusation No. 4438, are separately and severally, found to be true
28 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 is \$2,905.50 as of January 18, 2013.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Denise Elizabeth Adams has
3 subjected her Pharmacy Technician License No. TCH 56794 to discipline.

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

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

8 a. Respondent's License is subject to revocation pursuant to Business and Professions
9 section 4301, subdivision (l), for conviction of a substantially related crime(s), because on or
10 about December 12, 2011, in the criminal case, *People v. Denise Elizabeth Adams*, Case No.
11 SC073222A in San Mateo County Superior Court, Respondent was convicted of violating (1)
12 Penal Code section 273a, subdivision (a) (Willful harm or injury to child), a misdemeanor, and
13 (2) Vehicle Code section 23152, subdivision(b) (Driving with blood alcohol level of .08% or
14 more), a misdemeanor.

15 b. Respondent's License is subject to revocation pursuant to Business and Professions
16 Code section 4301, subdivision (k), because Respondent, as described above, was convicted of
17 more than one misdemeanor, involving the use, consumption, or self-administration of an
18 alcoholic beverage.

19 c. Respondent's License is subject to revocation pursuant to Business and Professions
20 Code section 4301, subdivision (h), because Respondent, as described above, used alcoholic
21 beverages in a dangerous or injurious manner.

22 d. Respondent's License is subject to revocation pursuant to Business and Professions
23 Code section 4301, because Respondent, as described above, engaged in unprofessional conduct.

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ORDER

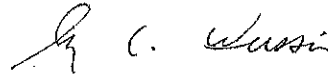
IT IS SO ORDERED that Pharmacy Technician License No. TCH 56794, heretofore issued to Respondent Denise Elizabeth Adams, is revoked.

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 April 17, 2013.

It is so ORDERED ON March 18, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

40642386.DOC
DOJ Matter ID:SF2012402722

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11 **DENISE ELIZABETH ADAMS**
12 **2180 Carlmont Drive 3**
13 **Belmont, CA 94002**
14 **Pharmacy Technician License No. TCH**
56794
15 Respondent.

Case No. 4438

ACCUSATION

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 June 10, 2004, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 56794 to Denise Elizabeth Adams (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on September 30, 2013, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code (Code) unless otherwise indicated.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime(s))

11. Respondent is subject to disciplinary action under section 4301, subdivision (l) and/or section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of substantially related crime(s), in that on or about December 12, 2011, in the criminal case *People v. Denise Elizabeth Adams*, Case No. SC073222A in San Mateo County Superior Court, Respondent was convicted on the basis of the conduct described in paragraph 10 of violating (1) Penal Code section 273a, subdivision (a) (Willful harm or injury to child), a misdemeanor, and (2) Vehicle Code section 23152, subdivision (b) (Driving with blood alcohol level of 0.08% or more), a misdemeanor. The conviction was entered as follows:

a. On or about April 12, 2011, based on the conduct described in paragraph 10, Respondent was charged by criminal Complaint in Case No. SC073222A with one count of violating (1) Penal Code section 273a, subdivision (a) (Willful harm or injury to child), a misdemeanor, (2) Penal Code section 273a, subdivision (a) (Willful harm or injury to child), a felony, (3) Vehicle Code section 23152, subdivision (a) (Driving under influence of alcohol or drugs), a misdemeanor, and (4) Vehicle Code section 23152, subdivision (b) (Driving with blood alcohol level of 0.08% or more), a misdemeanor, with special allegations for having blood alcohol of 0.15% or more under Vehicle Code section 23578, and for having minors under 14 years of age in the vehicle at the time of the offense under Vehicle Code section 23572.

b. On or about December 12, 2011, Respondent pleaded no contest to the first count of violating Penal Code section 273a, subdivision (a) (Willful harm or injury to child), a misdemeanor, and no contest to the count of violating Vehicle Code section 23152, subdivision (b) (Driving with blood alcohol level of 0.08% or more), a misdemeanor. Court documents established her blood alcohol as 0.23%. All other counts and enhancements were dismissed pursuant to the plea.

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1 c. On or about February 10, 2012, the court ordered imposition of sentence
2 suspended in favor of a four year supervised probation period with terms and conditions including
3 60 days in jail (2 days CTS), one year of a Child Abuser's Treatment Counseling program, a First
4 Offender DUI program, and fines and fees.

5 SECOND CAUSE FOR DISCIPLINE

6 (Multiple Convictions Involving Alcohol)

7 12. Respondent is subject to disciplinary action under section 4301, subdivision (k) of the
8 Code, in that Respondent, as described in paragraph 10, was convicted of more than one
9 misdemeanor or a felony involving the use, consumption, or self-administration of an alcoholic
10 beverage.

11 THIRD CAUSE FOR DISCIPLINE

12 (Self-Administration of Controlled Substance and/or Alcohol)

13 13. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the
14 Code, in that Respondent, as described in paragraph 10, used alcoholic beverages in a dangerous
15 or injurious manner.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct)

18 14. Respondent is subject to disciplinary action under section 4301 of the Code in that, as
19 described in paragraph 10, Respondent engaged in unprofessional conduct.

20 PRAAYER

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

23 1. Revoking or suspending Pharmacy Technician License Number TCH 56794, issued
24 to Denise Elizabeth Adams;

25 2. Ordering Denise Elizabeth Adams to pay the Board of Pharmacy the reasonable costs
26 of the investigation and enforcement of this case, pursuant to Business and Professions Code
27 section 125.3;

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

DATED: 11/19/12



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

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