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

In the Matter of the Accusation Against:

**HOJIN LEE  
6230 Roanoke Street  
San Diego, CA 92139**

**Pharmacy Technician Registration  
No. TCH 44606**

Respondent.

Case No. 4473

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about June 12, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4473 against Hojin Lee (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as Exhibit A.)

2. On or about October 7, 2002, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 44606 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4473 and will expire on December 31, 2013, unless renewed.

3. On or about July 1, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4473, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100

1 and California Code of Regulations, title 16, section 1704, is required to be reported and  
2 maintained with the Board. Respondent's address of record was and is:

3 6230 Roanoke Street  
4 San Diego, CA 92139

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 July 8, 2013, the aforementioned documents served by Certified mail  
9 were returned by the U.S. Postal Service marked "Moved – Left No Address - Unable to  
10 Forward." On or about July 9, 2013, the aforementioned documents served by First Class mail  
11 were returned by the U.S. Postal Service marked "Attempted – Not Known." The address on the  
12 documents was the same as the address on file with the Board. Respondent failed to maintain an  
13 updated address with the Board and the Board has made attempts to serve the Respondent at the  
14 address on file. Respondent has not made himself available for service and therefore, has not  
15 availed himself of his right to file a notice of defense and appear at hearing.

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

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

22 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
23 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
24 4473.

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

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

9. 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

1 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
2 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
3 therein on file at the Board's offices regarding the allegations contained in Accusation No. 4473,  
4 finds that the charges and allegations in Accusation No. 4473, are separately and severally, found  
5 to be true and correct by clear and convincing evidence.

6 10. Taking official notice of its own internal records, pursuant to Business and  
7 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
8 and Enforcement is \$612.50 as of July 23, 2013.

9 **DETERMINATION OF ISSUES**

10 1. Based on the foregoing findings of fact, Respondent Hojin Lee has subjected his  
11 Pharmacy Technician Registration No. TCH 44606 to discipline.

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

13 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
14 Registration based upon the following violations alleged in the Accusation which are supported  
15 by the Default Decision Investigatory Evidence Packet in this case:

16 a. Respondent has subjected his registration to discipline under sections 490 and  
17 4301, subdivision (l) of the Code in that on or about May 7, 2012, in a criminal proceeding  
18 entitled *People of the State of California v. Hojin Lee*, in San Diego County Superior Court, case  
19 number M148111, Respondent was convicted on his plea of guilty to violating Penal Code  
20 section 417, subdivision (a)(1), exhibiting a deadly weapon other than a firearm, to wit, a knife, a  
21 misdemeanor, a crime that is substantially related to the qualifications, duties, and functions of a  
22 pharmacy technician.

23 b. Respondent has subjected his registration to discipline under section 4301,  
24 subdivision (h) of the Code in that on or about April 6, 2012, he used alcohol in a manner as to be  
25 dangerous and injurious to himself and to others.

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**ORDER**

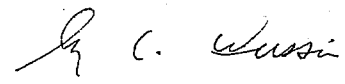
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 44606, heretofore issued to Respondent Hojin Lee, is revoked.

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 November 22, 2013.

It is so ORDERED ON October 23, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
STAN C. WEISSER  
Board President

DOJ Matter ID: SD2012704354

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 State Bar No. 101336  
AMANDA DODDS  
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P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2141  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*  
8

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

12 In the Matter of the Accusation Against:

Case No. 4473

13 **HOJIN LEE**  
14 **6230 Roanoke Street**  
**San Diego, CA 92139**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration**  
16 **No. TCH 44606**

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 October 7, 2002, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 44606 to Hojin Lee (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on December 31, 2013, unless renewed.

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**JURISDICTION**

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

4. Section 4300, subdivision (a) of the Code states that every license issued may be suspended or revoked.

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

**STATUTORY PROVISIONS**

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

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 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 been convicted of a crime substantially related to the qualifications, functions, and 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, 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.

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

3 9. Section 4301 of the Code states:

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

8 . . . .

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

14 . . . .

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

. . . .

### REGULATORY PROVISIONS

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

. . . .

(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 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:



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

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

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

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(May 7, 2012 Criminal Conviction for Exhibiting a Deadly Weapon on April 6, 2012)**

17 12. Respondent has subjected his registration to discipline under sections 490 and 4301,  
18 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the  
19 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

20 a. On or about May 7, 2012, in a criminal proceeding entitled *People of the State*  
21 *of California v. Hojin Lee*, in San Diego County Superior Court, case number M148111,  
22 Respondent was convicted on his plea of guilty to violating Penal Code section 417, subdivision  
23 (a)(1), exhibiting a deadly weapon other than a firearm, to wit, a knife, a misdemeanor. The court  
24 dismissed additional counts of assault with a deadly weapon (Pen. Code, § 245(a)(1)), carrying a  
25 switchblade knife (Pen. Code, § 21510(b)), and a second count of exhibiting a deadly weapon  
26 (Pen. Code, § 417(a)(1)), pursuant to a plea agreement.

27 b. As a result of the conviction, on or about May 7, 2012, Respondent was granted  
28 three years summary probation, and ordered to pay fees and fines, submit to a Fourth Amendment  
waiver, and comply with probation.

c. The facts that led to the conviction are that on or about the evening of April 6,  
2012, officers from the San Diego Police Department responded to a report of an assault with a

1 deadly weapon (knife) outside of a restaurant. According to witness statements, Respondent was  
2 heavily intoxicated when he left the restaurant. Respondent put his arm around a woman in the  
3 parking lot and made a derogatory remark. The woman's boyfriend took offense and asked  
4 Respondent to repeat what he had said. Respondent went to his vehicle and armed himself with a  
5 knife; he approached the couple and threatened to stab the male party. Another male pushed  
6 Respondent in an attempt to divert Respondent's attention away from the couple. Respondent  
7 chased the second male with the knife for a distance, then returned and continued threatening the  
8 couple. The second male threw a brick at Respondent after Respondent ran at him again with the  
9 knife. Respondent was knocked unconscious. The restaurant manager went out to the parking lot  
10 and took possession of the knife. As Respondent was regaining consciousness, the manager  
11 attempted to help him. Respondent became combative and punched the restaurant manager in the  
12 stomach. Respondent was hit twice again by the second male in an attempt to keep Respondent  
13 on the ground. When officers arrived, Respondent was conscious and squatting in the  
14 restaurant's parking lot, bleeding from the left side of his head. There was a strong odor of an  
15 alcoholic beverage on Respondent's breath. Respondent stated that he could not remember  
16 anything. Due to Respondent's injuries, medics transported him to the emergency room where  
17 Respondent was given x-rays and a CAT scan. Respondent had sustained lacerations to his face  
18 and head, and a two-centimeter laceration to the right side of his head that required stitches. After  
19 being cleared, the police officer questioned Respondent at his hospital bed. Respondent became  
20 abusive towards the hospital staff. Respondent told the officer that he did not remember anything  
21 about the assault. Four days later, Respondent admitted to a detective that he had been drinking  
22 in excess, that it was not rare that he would completely black out and do stupid things, and that he  
23 had been advised by his physician not to mix alcoholic beverages with prescription medications.

#### SECOND CAUSE FOR DISCIPLINE

##### **(Dangerous Use of Alcohol)**

24  
25  
26 13. Respondent has subjected his registration to discipline under section 4301,  
27 subdivision (h) of the Code in that on or about April 6, 2012, he used alcohol in a manner as to be  
28 dangerous and injurious to himself and to others, as described in paragraph 12, above.

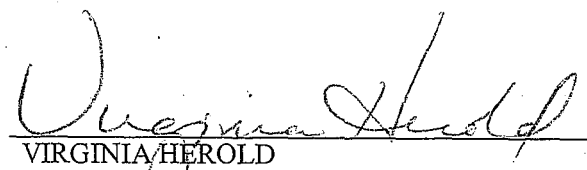
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**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 44606, issued to Hojin Lee;
2. Ordering Hojin Lee to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/12/13



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

SD2012704354