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

In the Matter of the Accusation Against:

**FREDDY ERNESTO VASQUEZ
15015 Anola St.
Whittier, CA 90604**

Pharmacy Technician Registration No. TCH 58537

Respondent.

Case No. 4674

**DEFAULT DECISION AND
ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about July 2, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4674 against Freddy Ernesto Vasquez (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about September 10, 2004, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 58537 to Respondent. On or about November 15, 2013, the Pharmacy Technician Registration was suspended pursuant to Business and Profession Code

1 section 4311, subdivision (a). The Registration, which was in full force and effect at all times
2 relevant to the charges brought in Accusation No. 4674, expired on June 30, 2014 and was not
3 renewed.

4 3. On or about July 14, 2014, Respondent was served by Certified and First Class Mail
5 copies of the Accusation No. 4674, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
8 is required to be reported and maintained with the Board. Respondent's address of record was
9 and is: 15015 Anola St., Whittier, CA 90604.

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

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

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

19 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
20 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation
21 No. 4674.

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

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

27 8. Pursuant to its authority under Government Code section 11520, the Board finds
28 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. 4674, finds that

1 the charges and allegations in Accusation No. 4674, are separately and severally, found to be true
2 and correct by clear and convincing evidence.

3 9. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement is \$3,130.00 as of January 22, 2015.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Freddy Ernesto Vasquez has
8 subjected his Pharmacy Technician Registration No. TCH 58537 to discipline.

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

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

13 a. Conviction of a Substantially Related Crime, violating Business and Professions
14 Code sections 490 and 4301, subdivision (l), in conjunction with California Code of Regulations,
15 title 16, section 1770.

16 b. Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption, violating
17 Business and Professions Code section 4301, subdivision (f).

18 c. Unprofessional Conduct, violating Business and Professions Code section 4301.

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ORDER

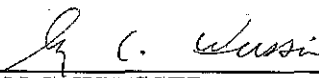
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 58537, heretofore issued to Respondent Freddy Ernesto Vasquez, is revoked.

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 10, 2015.

It is so ORDERED March 11, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSNER
Board President

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DOJ Matter ID:LA2013510090

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

Exhibit A

Accusation

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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. 4674

13 **FREDDY ERNESTO VASQUEZ**
15015 Anola St.
14 Whittier, CA 90604

A C C U S A T I O N

15 Pharmacy Technician Registration No. TCH
16 58537

Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 10, 2004, the Board issued Pharmacy Technician Registration
22 No. TCH 58537 to Freddy Ernesto Vasquez (Respondent). On or about November 15, 2013, the
23 Pharmacy Technician Registration was automatically suspended, pursuant to Business and
24 Professions Code section 4311, subdivision (a). The Registration will expire on June 30, 2014,
25 unless 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 4. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
2 revoked."

3 **STATUTORY PROVISIONS**

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

7 6. Section 4300.1 states:

8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
9 of law or by order or decision of the board or a court of law, the placement of a license on a
10 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
11 jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding
12 against, the licensee or to render a decision suspending or revoking the license."

13 7. Section 4301 states, in pertinent part:

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

17

18 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
19 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
20 whether the act is a felony or misdemeanor or not.

21

22 "(l) The conviction of a crime substantially related to the qualifications, functions, and
23 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
25 substances or of a violation of the statutes of this state regulating controlled substances or
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

28 The board may inquire into the circumstances surrounding the commission of the crime, in order to

1 fix the degree of discipline or, in the case of a conviction not involving controlled substances or
2 dangerous drugs, to determine if the conviction is of an offense substantially related to the
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
5 of this provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
10 indictment. . . . "

11 REGULATORY PROVISION

12 8. 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 9. Section 125.3 provides that the Board may request the administrative law judge to
21 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
22 sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
23 failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a
24 case settles, recovery of investigation and enforcement costs may be included in a stipulated
25 settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of a Substantially Related Crime)**

3 10. Respondent is subject to disciplinary action under sections 490 and 4301,
4 subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct, in that Respondent committed a crime substantially related to
6 the qualifications, functions or duties of a registrant which to a substantial degree evidences his
7 present or potential unfitness to perform the functions authorized by his registration in a manner
8 consistent with the public health, safety, or welfare, as follows:

9 a. On or about June 21, 2013, after being found guilty by a jury, Respondent was
10 convicted of two (2) felony counts, Count 1, violating Penal code section 269(a)(1) [aggravated
11 sexual assault of a child] and Count 2, violating Penal Code section 288(a) [lewd act upon a child]
12 in the criminal proceeding entitled *The People of the State of California v. Freddy E. Vasquez*
13 (Super. Ct. Los Angeles County, 2013, VA128403). The Court sentenced Respondent to 15 years
14 to life in prison.

15 b. The circumstances underlying the conviction are that on or between December 27,
16 2000 and December 26, 2003, Respondent, while in his mid-twenties sexually molested his
17 daughter's neighborhood friend, who was approximately four (4) or five (5) years old at the time,
18 in the presence of his daughter of approximately the same age. According to the victim, she was
19 playing with her friend (Respondent's daughter) at the friend's house on a hot summer day.
20 Respondent began spraying them with a water hose. The two young girls were dressed in bathing
21 suits. While they were playing, Respondent, his daughter and the victim went into the garage of
22 the residence. While inside the garage, Respondent told the victim to take off her bathing suit.
23 After the victim refused, Respondent picked up the victim and placed her on a table in the garage.
24 Respondent then removed the victim's bathing suit and began to insert his penis into the victim's
25 vagina, at which point the victim managed to free herself from Respondent and run to her home
26 nearby while still naked and wet. The victim had pain in her vaginal area for days afterward. The
27 victim kept the incident to herself for years. Both young girls experienced nightmares of the
28 molestation for many years. At the age of 15, the victim was encouraged to tell her mother about

1 the incident after revealing what had happened to a couple of her high school girlfriends. The
2 matter was reported to local law enforcement and an investigation was launched, which ultimately
3 led to Respondent's arrest.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

6 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), on the
7 grounds of unprofessional conduct, in that Respondent committed acts involving moral turpitude,
8 dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference incorporates
9 the allegations set forth above in paragraph 10, subparagraphs a and b, inclusive, as though set
10 forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct)**

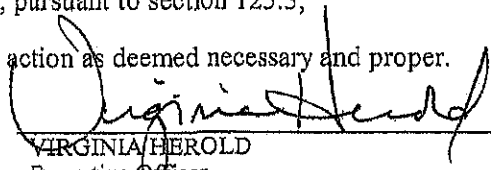
13 12. Respondent is subject to disciplinary action under section 4301, in that Respondent
14 committed acts of unprofessional conduct. Complainant refers to and by this reference
15 incorporates the allegations set forth above in paragraphs 10 and 11, inclusive, as though set forth
16 fully.

17 **PRAYER**

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

- 20 1. Revoking or suspending Pharmacy Technician Registration No. TCH 58537, issued to
21 Freddy Ernesto Vasquez;
- 22 2. Ordering Freddy Ernesto Vasquez to pay the Board the reasonable costs of the
23 investigation and enforcement of this case, pursuant to section 125.3;
- 24 3. Taking such other and further action as deemed necessary and proper.

25 DATED: 7/2/14


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