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

In the Matter of the Accusation Against:

Case No. 4899

**KAWA MOHAMMAD SOFI HAJI
130 E. Washington
El Cajon, CA 92020**

DEFAULT DECISION AND ORDER

**Pharmacy Technician Registration No.
TCH 103482**

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about February 3, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 4899 against Kawa Mohammad Sofi Haji (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about July 2, 2010, the Board issued Pharmacy Technician Registration No. TCH 103482 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4899, and expired on November 30, 2013. This lapse in licensure, however, pursuant to Business and Professions Code section Section 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.

1 3. On or about February 10, 2014, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 4899, 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: 130 E. Washington, El Cajon, CA 92020.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. On or about February 14, 2014, the aforementioned documents were returned by the
11 U.S. Postal Service marked "Vacant." The address on the documents was the same as the address
12 on file with the Board. Respondent failed to maintain an updated address with the Board and the
13 Board has made attempts to serve the Respondent at the address on file. Respondent has not
14 made himself available for service and therefore, has not availed himself of his right to file a
15 notice of defense and appear at hearing.

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

17 ...

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

23

24 7. Respondent failed to file a Notice of Defense within 15 days after service upon him
25 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
26 4899.

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

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

1 9. Pursuant to its authority under Government Code section 11520, the Board finds
2 Respondent is in default. The Board will take action without further hearing and, based on the
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
5 file at the Board's offices regarding the allegations contained in Accusation No. 4899, finds that
6 the charges and allegations in Accusation No. 4899, are separately and severally, found to be true
7 and correct by clear and convincing evidence.

8 10. Taking official notice of its own internal records, pursuant to Business and
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
10 and Enforcement is \$2,227.50 as of February 28, 2014.

11 DETERMINATION OF ISSUES

12 1. Based on the foregoing findings of fact, Respondent Kawa Mohammad Sofi Haji has
13 subjected his Pharmacy Technician Registration No. TCH 103482 to discipline.

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

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

18 a. Respondent is subject to disciplinary action for unprofessional conduct under
19 Business and Professions Code sections 490 and 4301, subdivision (1) in that Respondent was
20 convicted of a crime substantially related to the qualifications, functions, and duties of a
21 pharmacy technician. The circumstances are as follows:

22 On or about August 14, 2013, in a criminal proceeding entitled *People of the State of*
23 *California v. Kawa Mohammad Sofi Haji*, in the San Diego County Superior Court, East County
24 Division, in Case No. CE327937, Respondent was convicted on his guilty plea of violating Penal
25 Code section 288a(b)(2), oral copulation on a minor under 16, a felony. As a result of a plea
26 bargain, a count for violating Penal Code section 288(b)(1), forcible lewd act upon a child, with
27 substantial sexual conduct with a child under fourteen, a felony; a count for violating Penal Code

28 ///

1 section 288(a), lewd act upon a child, a felony; and a count for violating Penal Code section
2 288a(b)(1), oral copulation of a person under 18, a felony, were dismissed.

3 b. Respondent is also subject to disciplinary action for unprofessional conduct under
4 Business and Professions section 4301, subdivision (a) in that he engaged in gross immorality as
5 set forth in subparagraph a. above.

6 ORDER

7 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 103482 issued to
8 Respondent Kawa Mohammad Sofi Haji is revoked.

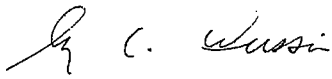
9 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
10 written motion requesting that the Decision be vacated and stating the grounds relied on within
11 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
12 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

13 This decision shall become effective on April 28, 2014.

14 It is so ORDERED on March 28, 2014.

15 BOARD OF PHARMACY
16 DEPARTMENT OF CONSUMER AFFAIRS
17 STATE OF CALIFORNIA

18
19 By



20 STAN C. WEISSER
21 Board President

22 70833696.DOC
DOJ Matter ID:SD2013706046

23 Attachment:
24 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA
Deputy Attorney General
4 State Bar No. 120482
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2095
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 4899

12 **KAWA MOHAMMAD SOFI HAJI**
13 **130 E. Washington**
El Cajon, CA 92020

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH 103482**

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 (Board), Department of Consumer Affairs.

21 2. On or about July 2, 2010, the Board issued Pharmacy Technician Registration
22 Number TCH 103482 to Kawa Mohammad Sofi Haji (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on November 30, 2013, 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 (Code) unless otherwise
28 indicated.

1 4. Section 4300 of the Code states:

2 (a) Every license issued may be suspended or revoked.

3 (b) The board shall discipline the holder of any license issued by the board,
4 whose default has been entered or whose case has been heard by the board and
found guilty, by any of the following methods:

5 (1) Suspending judgment.

6 (2) Placing him or her upon probation.

7 (3) Suspending his or her right to practice for a period not exceeding one
8 year.

9 (4) Revoking his or her license.

10 (5) Taking any other action in relation to disciplining him or her as the board
in its discretion may deem proper.

11 ...

12 (d) The board may initiate disciplinary proceedings to revoke or suspend any
13 probationary certificate of licensure for any violation of the terms and conditions
of probation. Upon satisfactory completion of probation, the board shall convert
14 the probationary certificate to a regular certificate, free of conditions.

15 (e) The proceedings under this article shall be conducted in accordance with
Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
16 Government Code, and the board shall have all the powers granted therein. The
action shall be final, except that the propriety of the action is subject to review by
17 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

18 5. Section 4300.1 of the Code states:

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

23 **STATUTORY AUTHORITIES**

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

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7. 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.

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

8. Section 4301 of the Code states:

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

(a) Gross immorality.

...

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

...

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

...

1 **COSTS**

2 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **REGULATIONS**

7 10. California Code of Regulations (CCR), title 16, section 1769, states in relevant part:

8 ...

9 (b) When considering the suspension or revocation of a facility or a personal
10 license on the ground that the licensee or the registrant has been convicted of a
11 crime, the board, in evaluating the rehabilitation of such person and his present
12 eligibility for a license will consider the following criteria:

13 (1) Nature and severity of the act(s) or offense(s).

14 (2) Total criminal record.

15 (3) The time that has elapsed since commission of the act(s) or offense(s).

16 (4) Whether the licensee has complied with all terms of parole, probation,
17 restitution or any other sanctions lawfully imposed against the licensee.

18 (5) Evidence, if any, of rehabilitation submitted by the licensee.

19 11. CCR, title 16, section 1770, states:

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 **FIRST CAUSE FOR DISCIPLINE**

27 (August 14, 2013 Criminal Conviction for Oral

28 Copulation on a Person under 16)

12. Respondent is subject to disciplinary action for unprofessional conduct under Code
sections 490 and 4301, subdivision (l) in that Respondent was convicted of a crime substantially

1 related to the qualifications, functions, and duties of a pharmacy technician. The circumstances
2 are as follows:

3 13. On or about August 14, 2013, in a criminal proceeding entitled *People of the State of*
4 *California v. Kawa Mohammad Sofi Haji*, in the San Diego County Superior Court, East County
5 Division, in Case No. CE327937, Respondent was convicted on his guilty plea of violating Penal
6 Code section 288a(b)(2), oral copulation on a minor under 16, a felony. As a result of a plea
7 bargain, a count for violating Penal Code section 288(b)(1), forcible lewd act upon a child, with
8 substantial sexual conduct with a child under fourteen, a felony; a count for violating Penal Code
9 section 288(a), lewd act upon a child, a felony; and a count for violating Penal Code section
10 288a(b)(1), oral copulation of a person under 18, a felony, were dismissed.

11 14. As a result of the above conviction, the Court placed Respondent on three years
12 formal probation to expire September 25, 2016, and ordered him to be committed to the custody
13 of the sheriff for four days, submit to DNA testing, and pay a fine of \$820.00, a court operations
14 assessment of \$40.00, a criminal conviction assessment fine of \$30.00, a sex offender registration
15 fine of \$300.00, and restitution fine of \$240.00.

16 15. The circumstances that led to Respondent's conviction are that beginning in or about
17 September 2011, Respondent began communicating over a telephone chat line with a then twelve-
18 year-old, girl who attended middle school. During these calls with the victim, Respondent used
19 the alias "Chris" and represented to the victim that he was 19 years old. In fact, when he started
20 conversing with the victim, Respondent was 21 years old. Respondent continued to maintain
21 regular contact with the victim over the course of the year. During that time, the victim refused to
22 meet with Respondent despite his repeated requests that she do so. On September 11, 2012,
23 Respondent finally convinced the victim to meet him. At about 7:00 p.m. that day, the victim,
24 then 13 years old, met Respondent in the parking lot of the local high school. She brought her 11
25 year old sister with her. Respondent told the victim that he wanted to be alone with her, and
26 directed her to come into his car and tell her sister to "kick back" and they would be back in a
27 while. The victim entered Respondent's car and he drove her to a parking lot. Once there,
28 Respondent forced the victim to orally copulate him.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Gross Immorality)

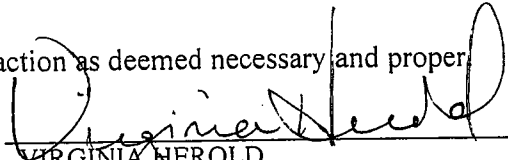
16. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (a) in that he engaged in gross immorality as set forth in paragraphs 13 to 15, inclusively, which are incorporated here by this reference.

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 103482 issued to Kawa Mohammad Sofi Haji;
2. Ordering Kawa Mohammad Sofi Haji 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: 2/3/14



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

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