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

In the Matter of the Accusation Against:  
**ALEXIS VARGAS**  
577 Santa Mariana Ave.  
La Puente, CA 91746  
**Pharmacy Technician Registration No. TCH  
122297**  
  
Respondent.

Case No. 4963  
**DEFAULT DECISION AND ORDER**  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about February 15, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4963 against Alexis Vargas (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about April 2, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 122297 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4963, but expired on March 31, 2014, and has been cancelled.

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///

1           3.    On or about March 4, 2014, Respondent was served by Certified and First Class Mail  
2 copies of the Accusation No. 4963, Statement to Respondent, Notice of Defense, Request for  
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
5 is required to be reported and maintained with the Board. Respondent's address of record was  
6 and is:

7    577 Santa Mariana Ave.  
8    La Puente, CA 91746.

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.    On or about March 29, 2014, the aforementioned documents were returned by the  
13 U.S. Postal Service marked "Return to Sender. Unclaimed. Unable to Forward. Return to Sender."

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

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

20           7.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
21 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
22 4963.

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

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

28           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  
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

1 file at the Board's offices regarding the allegations contained in Accusation No. 4963, finds that  
2 the charges and allegations in Accusation No. 4963, are separately and severally, found to be true  
3 and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and  
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
6 and Enforcement is \$1,650.

7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Alexis Vargas has subjected his  
9 Pharmacy Technician Registration No. TCH 122297 to discipline.

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

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

14 a. Business and Professions Code sections 4300 and 4301 (l) -- Unprofessional Conduct  
15 -Conviction of Substantially Related Crime;

16 b. Business and Professions Code sections 4300 and 4301 (k) -- Unprofessional Conduct  
17 - Convictions Involving Alcohol;

18 c. Business and Professions Code sections 4300 and 4301 (h) -- Unprofessional Conduct  
19 -- Dangerous Use of Alcohol;

20 d. Business and Professions Code section 4301 -- Unprofessional Conduct/Violation of  
21 Licensing Chapter.

22 **ORDER**

23 *IT IS SO ORDERED* that Pharmacy Technician Registration No. TCH 122297, heretofore  
24 issued to Respondent Alexis Vargas, is revoked.

25 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
26 written motion requesting that the Decision be vacated and stating the grounds relied on within  
27 seven (7) days after service of the Decision on Respondent. The agency in its discretion may

28 *///*

1 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

2 This Decision shall become effective on October 6, 2014.

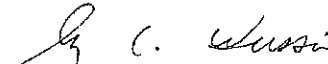
3 It is so ORDERED September 4, 2014.

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BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

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By   
STAN C. WEISSER  
Board President

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Attachment:  
Exhibit A: Accusation

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# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY SALUTE  
Supervising Deputy Attorney General  
3 DESIREE ANNE TULLENERS  
Deputy Attorney General  
4 State Bar No. 157464  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-8944  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4963

12 **ALEXIS VARGAS**  
577 Santa Mariana Ave.  
13 La Puente, CA 91746

**ACCUSATION**

14 Pharmacy Technician Registration  
15 No. TCH 122297

16 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.

21 2. On or about April 2, 2012, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician Registration No. TCH 122297 to Alexis Vargas (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and will expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

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

28

STATUTORY PROVISIONS

1  
2           4. Section 490 states, in pertinent part:

3           "(a) In addition to any other action that a board is permitted to take against a licensee, a  
4 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
5 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
6 or profession for which the license was issued.

7           "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
8 discipline a licensee for conviction of a crime that is independent of the authority granted under  
9 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of  
10 the business or profession for which the licensee's license was issued.

11           "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
12 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
13 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
14 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
15 made suspending the imposition of sentence, irrespective of a subsequent order under the  
16 provisions of Section 1203.4 of the Penal Code."

17           5. Section 4300 provides in pertinent part, that every license issued by the Boards is  
18 subject to discipline, including suspension or revocation:

19           6. Section 4300.1 states:

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

25           7. Section 4301 states, in pertinent part:

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



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

....

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

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

#### 5                                   REGULATORY PROVISIONS

6           8. California Code of Regulations, title 16, section 1770, states:

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

#### 13                                   COST RECOVERY

14           9. Section 125.3 provides, in pertinent part, that the Board may request the  
15 administrative law judge to direct a licentiate found to have committed a violation or violations of  
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
17 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
19 included in a stipulated settlement.

#### 20                                   FIRST CAUSE FOR DISCIPLINE

##### 21                                   (Conviction of Substantially Related Crime)

22           10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
23 490, in conjunction with California Code of Regulations, title 16, section 1770 in that on or around  
24 August 29, 2013, Respondent was convicted of one misdemeanor count of violating Vehicle Code  
25 section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in his  
26 blood] and one misdemeanor count of Vehicle Code section 14601.2, subdivision (a) [driving  
27 while driving privileges are suspended or revoked with knowledge] in a criminal proceeding  
28 entitled *The People of the State of California v. Alexis Vargas* (Super. Ct. Los Angeles County,

1 Case No. 3JB04931.) The circumstances underlying the conviction are that on or about May 19,  
2 2013, Irwindale Police Department officers encountered Respondent inside a vehicle that had  
3 sustained extensive damage after colliding with a tree. While speaking to Respondent, the officers  
4 detected objective signs of intoxication and he was ordered to take a field sobriety test, which he  
5 failed. Respondent was subsequently arrested and during the booking procedure, his blood  
6 alcohol was determined to be 0.12%. As a result of the conviction, the Court sentenced  
7 Respondent to serve 30 days in Los Angeles County Jail and placed him on 5 years probation  
8 subject to terms and conditions.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Convictions Involving Alcohol)**

11 11. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision  
12 (k), in that he suffered a second conviction involving the use of alcohol. Complainant refers to and  
13 by this reference incorporates the allegations set forth above in paragraph 10, as though set forth  
14 fully.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Dangerous Use of Alcohol)**

17 12. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision  
18 (h), in that Respondent used alcoholic beverages to an extent or in a manner dangerous or  
19 injurious to himself, any person, or the public when he operated a vehicle while having a blood  
20 alcohol level of 0.12%. Complainant refers to and by this reference incorporates the allegations  
21 set forth above in paragraph 10, as though set forth fully.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

24 13. Respondent is subject to disciplinary action under section 4301, (o), in that  
25 Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing  
26 chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above  
27 in paragraphs 10 through 12, inclusive, as though set forth fully.

28

1 DISCIPLINARY CONSIDERATIONS

2 14. In order to determine the degree of discipline to impose on Respondent, Complainant  
3 alleges the following:

4 a. On or about June 20, 2013, the Board issued Citation and Fine No. CI 2012  
5 53818 to Respondent for violating section 4301, subdivisions (f), (h), (l), and (j). The total  
6 amount of the fine was \$300 and Respondent has yet to comply.

7 b. On or about November 27, 2012, Respondent was convicted of one  
8 misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having  
9 0.08% or more, by weight, of alcohol in his blood] in a criminal proceeding entitled *The People of*  
10 *the State of California v. Alexis Vargas* (Super. Ct. Los Angeles County, Case No. 2PK04701.)  
11 The circumstances underlying the conviction are that on or about September 13, 2012,  
12 Respondent drove a motor vehicle with a blood alcohol level of at least .08%. As a result of the  
13 conviction, the Court sentenced Respondent to serve 13 days in Los Angeles County Jail and  
14 placed him on 36 months probation subject to terms and conditions.

15 c. On or about November 28, 2012, Respondent was convicted of one  
16 misdemeanor count of violating Penal Code section 415, subdivision (1) [fighting in a public place]  
17 in a criminal proceeding entitled *The People of the State of California v. Alexis Vargas* (Super. Ct.  
18 San Bernardino County, Case No. MVA1202564.) As a result of the conviction, Respondent was  
19 ordered to pay a fine.

20 PRAYER

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

23 1. Revoking or suspending Pharmacy Technician Registration No. TCH 122297, issued  
24 to Alexis Vargas;

25 2. Ordering Alexis Vargas to pay the Board the reasonable costs of the investigation and  
26 enforcement of this case, pursuant to section 125.3; and

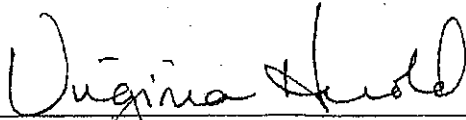
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3. Taking such other and further action as deemed necessary and proper.

DATED: 2/15/14



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

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