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

In the Matter of the Accusation Against:

**SHELI DALANE WOOTEN  
5123 Iris Ct.  
Visalia, CA 93277  
Pharmacy Technician Registration No.  
63396**

Respondent.

Case No. 5206

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about September 14, 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. 5206 against Sheli Dalane Wooten (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about June 28, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. 63396 to Respondent. The Pharmacy Technician Registration was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 5206 and will  
2 expire on February 28, 2015, unless renewed.

3 3. On or about September 25, 2014, Respondent was served by Certified Mail and  
4 United States First Class mail with copies of the Accusation No. 5206, Statement to Respondent,  
5 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections  
6 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business  
7 and Professions Code section 4100, is required to be reported and maintained with the Board.  
8 Respondent's address of record was and is: 5123 Iris Ct., Visalia, CA 93277.

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 October 3, 2014, the aforementioned documents were returned by the  
13 U.S. Postal Service marked "Unable to Forward."

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 her of  
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5206.

22 8. 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 9. 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 Investigatory Evidence Packet in this matter,  
as well as taking official notice of all the investigatory reports, exhibits and statements contained

1 therein on file at the Board's offices regarding the allegations contained in Accusation No. 5206,  
2 finds that the charges and allegations in Accusation No. 5206, are separately and severally, found  
3 to be true 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 \$2,167.50 as of October 23, 2014.

7 DETERMINATION OF ISSUES

8 1. Based on the foregoing findings of fact, Respondent Sheli Dalane Wooten has  
9 subjected her Pharmacy Technician Registration No. 63396 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 Investigatory Evidence Packet in this case.:

14 a. Violation of Business & Professions Code sections 4301(l), 4301(h) and 4301(k) for  
15 unprofessional conduct by her 2012 conviction in *People v. Sheli Dalane Wooten*, Tulare County  
16 Superior Court Case No. TCM271289 for driving under the influence of alcohol in violation of  
17 Vehicle Code section 23152(b);

18 b. Violation of Business & Professions Code sections 4301(f), 4301(h), 4301(j), 4301(k)  
19 and 4301(l) for unprofessional conduct by her 2013 conviction in *People v. Sheli Dalane*  
20 *Wooten*, Tulare County Superior Court Case No. VCM281786 for misdemeanor violations of  
21 Vehicle Code section 23152(b) [driving under the influence of alcohol], Vehicle Code section  
22 23578 [driving under the influence of alcohol having a blood alcohol level above .15%], Vehicle  
23 Code section 14601.2(a) [driving under a suspended license] and Health & Safety Code section  
24 11550(a) [being under the influence of methamphetamine].

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ORDER

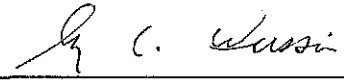
IT IS SO ORDERED that Pharmacy Technician Registration No. 63396, heretofore issued to Respondent Sheli Dalane Wooten, is revoked.

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 December 15, 2014.

It is so ORDERED November 14, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
STAN C. WEISSER  
Board President

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 STERLING A. SMITH  
Deputy Attorney General  
4 State Bar No. 84287  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-0378  
Facsimile: (916) 327-8643  
7 Attorneys for Complainant

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. 5206

13 **SHELI DALANE WOOTEN**  
5123 Iris Ct.  
14 Visalia, CA 93277

**ACCUSATION**

15 **Pharmacy Technician Registration No.**  
**63396**

16 Respondent.

17  
18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about June 28, 2005, the Board issued Pharmacy Technician Registration  
23 Number 63396 to Sheli Dalane Wooten ("Respondent"). The registration was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on February 28, 2015,  
25 unless renewed.

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## JURISDICTION

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2           3.     Business and Professions Code ("Code") section 4300 provides, in pertinent part,  
3 that every license issued by the Board is subject to discipline, including suspension or revocation.

4           4.     Code section 4300.1 states:

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

## STATUTORY PROVISIONS

11           5.     Code section 4301 states, in pertinent part:

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

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

19                 (g) Knowingly making or signing any certificate or other document that falsely  
20 represents the existence or nonexistence of a state of facts.

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

26                 (i) The violation of any of the statutes of this state, or any other state, or of the  
27 United States regulating controlled substances and dangerous drugs.

28                 (j) 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.

                  (k) 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

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

6. Code section 492 states:

7 Notwithstanding any other provision of law, successful completion of any  
8 diversion program under the Penal Code, or successful completion of an alcohol and  
9 drug problem assessment program under Article 5 (commencing with Section  
10 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any  
11 agency established under Division 2 (commencing with Section 500) of this code, or  
12 any initiative act referred to in that division, from taking disciplinary action against a  
13 licensee or from denying a license for professional misconduct, notwithstanding that  
14 evidence of that misconduct may be recorded in a record pertaining to an arrest. This  
15 section shall not be construed to apply to any drug diversion program operated by any  
16 agency established under Division 2 (commencing with Section 500) of this code, or  
17 any initiative act referred to in that division.

#### 13 COST RECOVERY

14 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
15 administrative law judge to direct a licensee 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.

#### 18 **DRUGS**

19 8. Methamphetamine is a Schedule II controlled substance as designated by Health and  
20 Safety Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to  
21 section 4022 of the Code.

#### 22 FIRST CAUSE FOR DISCIPLINE

#### 23 (Conviction of Crimes)

24 9. Respondent is subject to discipline pursuant to Code section 4301(1), on the grounds  
25 of unprofessional conduct, in that Respondent was convicted of crimes which are substantially  
26 related to the qualifications, functions, or duties of a pharmacy technician, as follows:

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1 a. On or about September 17, 2012, in the case of *People v. Shelli Dalane Wooten*,  
2 (Super. Ct. Tulare County, 2012, Case No. TCM271289), Respondent was convicted by the Court  
3 on her plea of guilty of violating Vehicle Code section 23152(b) (driving with a blood alcohol  
4 level of .08% or higher), a misdemeanor, with an enhancement of Vehicle Code section 23578  
5 (having a blood alcohol level of .15% or higher). The circumstances of the crime were that on or  
6 about July 8, 2012, Respondent drove a vehicle while having a blood alcohol level of 0.17% and  
7 almost struck a center median.

8 b. On or about December 2, 2013, in the case of *People v. Shelli Dalane Wooten*, (Super.  
9 Ct. Tulare County, 2013, Case No. VCM281786), Respondent was convicted by the Court on her  
10 plea of nolo contendere of violating Vehicle Code section 23152(b) (driving with a blood alcohol  
11 level of .08% or higher), a misdemeanor, with an enhancement of Vehicle Code section 23578  
12 (having a blood alcohol level of .15% or higher), and a prior conviction of the same, set forth  
13 above in subdivision (a). Respondent was also convicted on her plea of guilty to violating  
14 Vehicle Code section 14601.2(a) (driving with a suspended license for a prior driving under the  
15 influence of alcohol conviction), a misdemeanor, and Health and Safety Code section 11550(a)  
16 (under the influence of a controlled substance, Methamphetamine), a misdemeanor. The  
17 circumstances of the crime were that on or about January 30, 2013, Respondent drove a vehicle  
18 while under the influence of Methamphetamine, and with a blood alcohol level of 0.20%, and was  
19 involved in a collision.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Violation of State Laws Regulating Controlled Substance)**

22 10. Respondent is subject to discipline pursuant to Code section 4301(j), on the grounds  
23 of unprofessional conduct, in that on or about January 30, 2013, Respondent violated Health and  
24 Safety Code sections 11550(a), when she was under the influence of a controlled substance,  
25 Methamphetamine, without a prescription, as more particularly set forth above in paragraph 9,  
26 subdivision (b).

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1 nonexistence of a state of facts by failing to disclose the conviction set forth above in paragraph  
2 9, subdivision (a), by answering "No" to the following question on the renewal application:

3 Have you ever been convicted of any offense other than minor traffic  
4 violations? If yes, explain fully as described in the applicant instructions.  
5 Convictions must be reported even if they have been adjudicated, dismissed  
6 or expunged or if a diversion program has been completed under the Penal  
7 Code or Article 5 of the Vehicle Code. Traffic violations involving driving  
8 under the influence, injury to persons or providing false information must be  
9 reported. The definition of conviction includes a plea of nolo contendere (no  
10 contest), as well as pleas or verdicts of guilty. YOU MUST INCLUDE  
11 MISDEMEANOR AS WELL AS FELONY CONVICTIONS.

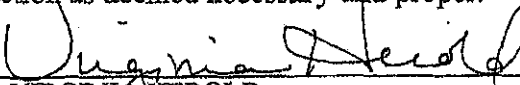
12 In fact, Respondent was convicted on September 17, 2012, for driving while under the  
13 influence of alcohol, as more particularly set forth above in paragraph 9, subdivision (a).

14 PRAYER

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

- 17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 63396,  
18 issued to Sheli Dalane Wooten;
- 19 2. Ordering Sheli Dalane Wooten to pay the Board of Pharmacy the reasonable costs of  
20 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
21 125.3; and,
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 9/14/14

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

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