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

In the Matter of the Accusation Against: CANDICE MARIE LAMBERT 109 Stirling Drive Vacaville, CA 95687 Pharmacy Technician Registration No. TCH 100092 Respondent.	Case No. 5490 **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 14, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5490 against Candice Marie Lambert (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about March 30, 2010, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 100092 to Candice Marie Lambert (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in this Accusation and expired on May 31, 2015.

3. On or about October 27, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5490, 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, is required to be reported and maintained with the Board. Respondent's address of record was and is: 109 Stirling Drive, Vacaville, CA 95687.

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

5. On or about November 16, 2016, the aforementioned documents were returned by the U.S. Postal Service marked "Return to Sender - Unable to Forward."

6. Government Code section 11506(c) states, in pertinent part:

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

7. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5490.

8. California Government Code section 11520(a) states, in pertinent part:

> (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 . . . .

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 file at the Board's offices regarding the allegations contained in Accusation No. 5490, finds that the charges and allegations in Accusation No. 5490, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation

and Enforcement is $1,402.50 as of December 7, 2016.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Candice Marie Lambert has subjected her Pharmacy Technician No. TCH 100092 to discipline.

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

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

a. Violation of Business & Professions Code, section 4060 (Possessing Controlled Substances Without a Prescription);

b. Violation of Business & Professions Code, section 4301, subdivision (j) (Violation of Laws Relating to Controlled Substance).

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 100092, issued to Respondent Candice Marie Lambert, 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 at 5:00 p.m. on February 22, 2017.

It is so ORDERED on January 23, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
Amy Gutierrez, Pharm.D.
Board President

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Attachment: Exhibit A: Accusation

Exhibit A

Accusation No. 5490

(CANDICE MARIE LAMBERT)

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

In the Matter of the Accusation Against: **CANDICE MARIE LAMBERT** **109 Stirling Drive** **Vacaville, CA 95687** **Pharmacy Technician Registration No. TCH 100092** Respondent.	Case No. 5490 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about March 30, 2010, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 100092 to Candice Marie Lambert (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in this Accusation and expired on May 31, 2015.

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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 unless otherwise indicated.

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300 of the Code states, in relevant part:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

. . .

"(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 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 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

6. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued 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 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 licensee or to render a decision suspending or revoking the license."

STATUTES

7. Section 4301 of the Code states, in relevant part:

"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:

. . .

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

8. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

"This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

DRUGS

9. Code section 4021 states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

10. Heroin is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subdivision (c)(11), and a dangerous drug as designated by Business and Professions Code section 4022.

11. Concentrated cannabis is a Schedule I controlled substance as designated by Health and Safety Code section 11054, subd. (d)(13), and a dangerous drug as designated by Business and Professions Code section 4022.

COST RECOVERY

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

BACKGROUND

13. On or about February 26, 2015, officers from the Vacaville Police Department served a search warrant on Respondent's residence in Vacaville, California. Upon executing the search warrant, an officer searched Respondent and found .74 grams of heroin, five syringes, and a cell phone on her person. Officers searched Respondent's bedroom in the house and located two functioning digital scales, a vial containing .16 grams of black tar heroin, and a clear bag containing concentrated cannabis.

FIRST CAUSE FOR DISCIPLINE
(Possessing Controlled Substances Without a Prescription)
(Bus. & Prof Code, § 4060)

14. Respondent has subjected her Pharmacy Technician Registration to disciplinary action under Code section 4060, in that on or about February 26, 2015, she illegally possessed heroin and concentrated cannabis, controlled substances, without a prescription. The circumstances are more fully explained in paragraph 13, above.

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SECOND CAUSE FOR DISCIPLINE
(Violation of Laws Relating to Controlled Substance)
(Bus. & Prof Code § 4301, subd. (j))

15. Respondent has subjected her Pharmacy Technician Registration to disciplinary action under Code section 4301, subdivision (j), in that she violated state laws relating to controlled substances, including Health and Safety Code, section 11350, subdivision (a) (possessing controlled substances), and Health and Safety Code, section 11357, subdivision (a) (possessing concentrated cannabis), when she was found in possession of heroin and concentrated cannabis on or about February 26, 2015. The circumstances are more fully explained in paragraph 13, above.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 100092, issued to Candice Marie Lambert;

2. Ordering Candice Marie Lambert 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; and,

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

DATED: 10/14/16

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

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