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

In the Matter of the Accusation Against:  
**SALLY MARIE SCARRY**  
**6253 Carlow Dr. 3**  
**Citrus Heights, CA 95621**  
  
**Pharmacy Technician Registration No. TCH 92687**  
  
Respondent.

Case No. 5762

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about August 22, 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. 5762 against Sally Marie Scarry (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 31, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 92687 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5762 and will expire on February 28, 2017, unless renewed.

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1           3.    On or about August 30, 2016, Respondent was served by Certified and First Class  
2 Mail copies of Accusation No. 5762, 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 6253 Carlow Dr. 3  
8 Citrus Heights, CA 95621.

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 September 1, 2016, Respondent returned a signed Certified Mail receipt  
13 for the aforementioned Certified and First Class Mail documents.

14           6.    Government Code section 11506(c) 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  
17 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
18 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
19 discretion 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. 5762.

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

23               (a) If the respondent either fails to file a notice of defense . . . or to appear at  
24 the hearing, the agency may take action based upon the respondent's express  
25 admissions or upon other evidence and affidavits may be used as evidence without  
26 any notice to 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 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. 5762, finds that

1 the charges and allegations in Accusation No. 5762, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 10. 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 are \$1,789.50 as of October 3, 2016.

#### 6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Sally Marie Scarry has subjected  
8 her Pharmacy Technician Registration No. TCH 92687 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. Respondent violated Business and Professions Code section 4301, subdivision (d), in  
14 that on or about February 25, 2015, in the criminal proceeding entitled *People vs. Sally Marie*  
15 *Scarry* (Sacramento County Super. Ct., Case No. 14M06848), Respondent was convicted by the  
16 Court, on her plea of nolo contendere, of violating Penal Code section 273a, subdivision (b)  
17 (child endangerment), a misdemeanor, a crime substantially related to the qualifications,  
18 functions, and duties of a pharmacy technician. The imposition of Respondent's sentence was  
19 suspended and Respondent was placed on probation for three (3) years on terms and conditions,  
20 including that she obey all laws. The circumstances of the crime are set forth below.

21 b. On or about August 22, 2014, Citrus Heights Police Department ("CHPD") officers  
22 were dispatched to Respondent's residence to conduct a welfare check of her two minor children.  
23 Respondent had come to the CHPD earlier that day and reported that some people were following  
24 her from her home while she went to a restaurant, and all over town while she drove. Once the  
25 officers determined that the residence was clear, they began their welfare check. Respondent's  
26 two minor children were not at the residence. The officers found that the residence was  
27 uninhabitable for the children in that it was extremely dirty and unkempt (the wallpaper in the  
28 kitchen was black and there was dirt, trash, and clothing all over the carpet); the upstairs

1 bathroom was filthy, and the toilet was not working and contained urine and feces; and the oven  
2 was not working. One of the officers called Child Protective Services ("CPS") to place  
3 Respondent's children into protective custody. The children were picked up from school and  
4 driven to the CHPD. The officers returned to the CHPD and met with the children. The children  
5 told the officers that various items in their house were "destroyed," including the oven. The  
6 children indicated that they only ate finger foods. Later, the children were released to CPS  
7 custody.

8 c. On or about September 22, 2015, CHPD officers conducted a probation  
9 search/welfare check of Respondent's residence. Upon arrival, the officers found that the  
10 residence was unsanitary and unhealthy for Respondent's two minor children. The upstairs toilet  
11 was flooded with feces sitting in it; and there were exposed wires, trash, and filth in the children's  
12 bedrooms as well as dirty mattresses with no sheets, comforters, or blankets. The officers placed  
13 Respondent under arrest for violating Penal Code sections 273a, subdivision (b) (child  
14 endangerment), and 1203.2 (violation of probation). One of the officers called CPS and the  
15 children were taken into protective custody.

16 d. On or about July 8, 2016, Respondent admitted at her probation hearing that she was  
17 in violation of her probation. Respondent's probation was modified and she was placed on  
18 formal probation for four years on terms and conditions, including that she attend parenting  
19 classes for fifty-two weeks.

20 e. Respondent violated Business and Professions Code section 4301, subdivision (f), in  
21 that she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set  
22 forth in paragraphs 3(a)-(d), above.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 92687, heretofore issued to Respondent Sally Marie Scarry, 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 December 2, 2016.

It is so ORDERED on November 2, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

12450708.DOC  
SA2016100745

Attachment:  
Exhibit A: Accusation

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# Exhibit A

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Accusation

(SALLY MARIE SCARRY)

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 PHILLIP L. ARTHUR  
Deputy Attorney General  
4 State Bar No. 238339  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-0032  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5762

12 **SALLY MARIE SCARRY**  
13 **6253 Carlow Dr. 3**  
**Citrus Heights, CA 95621**

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **92687**

16 **Respondent.**

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 August 31, 2009, the Board issued Pharmacy Technician Registration  
22 Number TCH 92687 to Sally Marie Scarry ("Respondent"). The pharmacy technician registration  
23 was in full force and effect at all times relevant to the charges brought herein and will expire on  
24 February 28, 2017, unless renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

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.

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4. Code section 4300 states, in pertinent 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 . . . .

5. Code section 4300.1 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.

6. Code section 4301 states, in pertinent 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:

...

(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



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 **COST RECOVERY**

7 7. Code section 125.3 provides, in pertinent part, that a Board may request the  
8 administrative law judge to direct a licentiate found to have committed a violation or violations of  
9 the licensing act to pay a sum not to exceed the reasonable costs of investigation and enforcement  
10 of the case.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Criminal Conviction)**

13 8. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
14 Code section 4301, subdivision (I), in that on or about February 25, 2015, in the criminal  
15 proceeding entitled *People vs. Sally Marie Scarry* (Sacramento County Super. Ct., Case No.  
16 14M06848), Respondent was convicted by the Court, on her plea of nolo contendere, of violating  
17 Penal Code section 273a, subdivision (b) (child endangerment), a misdemeanor, a crime  
18 substantially related to the qualifications, functions, and duties of a pharmacy technician. The  
19 imposition of Respondent's sentence was suspended and Respondent was placed on probation for  
20 three (3) years on terms and conditions, including that she obey all laws.

21 9. The circumstances of the above crime are as follows: On or about August 22, 2014,  
22 Citrus Heights Police Department ("CHPD") officers were dispatched to Respondent's residence  
23 to conduct a welfare check of her two minor children. Respondent had come to the CHPD earlier  
24 that day and reported that some people were following her from her home while she went to a  
25 restaurant, and all over town while she drove.<sup>1</sup> Once the officers determined that the residence  
26 was clear, they began their welfare check. Respondent's two minor children were not at the

27 <sup>1</sup> Respondent had come to the CHPD various times before to report that people were  
28 following her and breaking into her residence, which was determined to be unfounded.

1 residence. The officers found that the residence was uninhabitable for the children in that it was  
2 extremely dirty and unkempt (the wallpaper in the kitchen was black and there was dirt, trash, and  
3 clothing all over the carpet); the upstairs bathroom was filthy, and the toilet was not working and  
4 contained urine and feces; and the oven was not working. One of the officers called Child  
5 Protective Services ("CPS") to place Respondent's children into protective custody. The children  
6 were picked up from school and driven to the CHPD. The officers returned to the CHPD and met  
7 with the children. The children told the officers that various items in their house were  
8 "destroyed," including the oven. The children indicated that they only ate finger foods. Later,  
9 the children were released to CPS custody.

10 10. On or about September 22, 2015, CHPD officers conducted a probation  
11 search/welfare check of Respondent's residence. Upon arrival, the officers found that the  
12 residence was unsanitary and unhealthy for Respondent's two minor children. The upstairs toilet  
13 was flooded with feces sitting in it; and there were exposed wires, trash, and filth in the children's  
14 bedrooms as well as dirty mattresses with no sheets, comforters, or blankets. The officers placed  
15 Respondent under arrest for violating Penal Code sections 273a, subdivision (b), and 1203.2  
16 (violation of probation). One of the officers called CPS and the children were taken into  
17 protective custody.

18 11. On or about July 8, 2016, Respondent admitted at her probation hearing that she was  
19 in violation of her probation. Respondent's probation was modified and she was placed on  
20 formal probation for four years on terms and conditions, including that she attend parenting  
21 classes for fifty-two weeks.

22 **SECOND CAUSE FOR DISCIPLINE**

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

24 12. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
25 Code section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude,  
26 dishonesty, fraud, deceit, or corruption, as set forth in paragraphs 8 through 10 above.

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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 92687, issued to Sally Marie Scarry;

2. Ordering Sally Marie Scarry to pay the Board of Pharmacy the reasonable costs of 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: 8/22/16

*Virginia Herold*

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

SA2016100745