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

In the Matter of the Accusation Against:
SAMANTHA ANNE DAGGETT
1260 Borden Rd. Apt. 22
Escondido, CA 92026
Pharmacy Technician Registration No. TCH
118626

Respondent.

Case No. 5944
DEFAULT DECISION AND ORDER
[Gov. Code, §11520]

FINDINGS OF FACT

1. On October 14, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 5944 against Samantha Anne Daggett (Respondent) before the Board. (Accusation attached as Exhibit A.)
2. On December 27, 2011, the Board issued Pharmacy Technician Registration No. TCH 118626 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5944, and will expire on May 31, 2017, unless renewed.
3. On October 21, 2016, Respondent was served by Certified and First Class Mail copies of Accusation No. 5944, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)

1 at Respondent's address of record which, pursuant to Business and Professions Code (Code)
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of
3 record was and is 1260 Borden Rd. Apt. 22, Escondido, CA 92026.

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

6 5. On November 11, 2016, the aforementioned documents were returned by the U.S.
7 Postal Service marked "Return to Sender Unable to Forward." The address on the documents
8 was the same as the address on file with the Board. Respondent failed to maintain an updated
9 address with the Board and the Board has made attempts to serve the Respondent at the address
10 on file. Respondent has not made herself available for service and therefore, has not availed
11 herself of her right to file a notice of defense and appear at hearing.

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

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

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon
19 her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation
20 No. 5944.

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

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

26 9. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 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. 5944, finds that

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1 the charges and allegations in Accusation No. 5944, 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 Code section 125.3,
4 it is hereby determined that the reasonable costs for Investigation and Enforcement is \$590.00 as
5 of January 4, 2017.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Samantha Anne Daggett has
8 subjected her Pharmacy Technician Registration No. TCH 118626 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
11 Technician Registration based upon the following violations alleged in the Accusation which are
12 supported by the evidence contained in the Default Decision Evidence Packet in this case.:

13 a. Respondent has subjected her Pharmacy Technician Registration to
14 discipline under Code sections 490 and 4301, subdivision (l), in that on June 10, 2016, in a
15 criminal proceeding entitled *The People of the State of California v. Samantha Daggett*, in the
16 San Diego County Superior Court, North County Division, Case Number CN357222,
17 Respondent was convicted on his plea of guilty of violating Vehicle Code (VC) section 23152,
18 subdivision (b), driving with a blood alcohol content (BAC) of 0.08 percent or more, a
19 misdemeanor substantially related to the qualifications, functions, and duties of a registered
20 pharmacy technician. Respondent admitted and the court found true the allegation that at the
21 time of violation of VC section 23152, subdivision (b), mentioned above, her BAC was .15
22 percent or more, a sentencing enhancement under VC section 23578.

23 b. Respondent has subjected her Pharmacy Technician Registration to
24 discipline under Code section 4301, subdivision (h) in that on March 7, 2016, she used alcohol to
25 the extent and in a manner that was dangerous and injurious to herself and to the public.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 118626, heretofore issued to Respondent Samantha Anne Daggett, 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 March 2, 2017.

It is so ORDERED on January 31, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

81545604.DOC
DOJ Matter ID:SD2016702108

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(SAMANTHA ANNE DAGGETT)

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Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 5944

13 **SAMANTHA ANNE DAGGETT**
1260 Borden Rd. Apt. 22
14 Escondido, CA 92026

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH 118626**

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

23 2. On December 27, 2011, the Board issued Pharmacy Technician Registration
24 Number TCH 118626 to Samantha Anne Daggett (Respondent). Respondent has also been
25 known as Samanatha Daggett. The Pharmacy Technician Registration was in full force and effect
26 at all times relevant to the charges brought herein, and will expire on May 31, 2017, unless
27 renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board, under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Code section 4300, subdivision (a), provides that every license issued by the Board
6 may be suspended or revoked.

7 5. Code section 4300.1 states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued
9 license by operation of law or by order or decision of the board or a court of law,
10 the placement of a license on a retired status, or the voluntary surrender of a
11 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.

12 STATUTORY PROVISIONS

13 6. Code section 482 states:

14 Each board under the provisions of this code shall develop criteria to
15 evaluate the rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
- 17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Code section 4301 states, in pertinent part:

21 The board shall take action against any holder of a license who is guilty of
22 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:

23 ...

24 (h) The administering to oneself, of any controlled substance, or the use of
25 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
26 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.

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1 (l) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee under this chapter. The record of conviction of
3 a violation of Chapter 13 (commencing with section 801) of Title 21 of the United
4 States Code regulating controlled substances or of a violation of the statutes of
5 this state regulating controlled substances or dangerous drugs shall be conclusive
6 evidence of unprofessional conduct. In all other cases, the record of conviction
7 shall be conclusive evidence only of the fact that the conviction occurred. The
8 board may inquire into the circumstances surrounding the commission of the
9 crime, in order to fix the degree of discipline or, in the case of a conviction not
10 involving controlled substances or dangerous drugs, to determine if the conviction
11 is of an offense substantially related to the qualifications, functions, and duties of
12 a licensee under this chapter. A plea or verdict of guilty or a conviction following
13 a plea of *nolo contendere* is deemed to be a conviction within the meaning of this
14 provision. The board may take action when the time for appeal has elapsed, or the
15 judgment of conviction has been affirmed on appeal or when an order granting
16 probation is made suspending the imposition of sentence, irrespective of a
17 subsequent order under section 1203.4 of the Penal Code allowing the person to
18 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
19 the verdict of guilty, or dismissing the accusation, information, or indictment.

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REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1769, states:

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

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or

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1 registrant to perform the functions authorized by his license or registration in a
2 manner consistent with the public health, safety, or welfare.

3 COST RECOVERY

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

10 FIRST CAUSE FOR DISCIPLINE

11 **(June 10, 2016 Conviction for Driving with a BAC of .08% or More on March 7, 2016)**

12 11. Respondent has subjected her Pharmacy Technician Registration to discipline
13 under Code sections 490 and 4301, subdivision (l), in that she was convicted of a crime
14 substantially related to the qualifications, functions, and duties of a registered pharmacy
15 technician. The circumstances are as follows:

16 a. On June 10, 2016, in a criminal proceeding entitled *The People of the*
17 *State of California v. Samantha Daggett*, in the San Diego County Superior Court, North
18 County Division, Case Number CN357222, Respondent was convicted on his plea of guilty of
19 violating Vehicle Code (VC) section 23152, subdivision (b), driving with a blood alcohol content
20 (BAC) of 0.08 percent or more, a misdemeanor. Respondent admitted and the court found true
21 the allegation that at the time of violation of VC section 23152, subdivision (b), mentioned
22 above, his BAC was .15 percent or more, a sentencing enhancement under VC section 23578. A
23 misdemeanor charge for violation of VC section 23152, subdivision (a), driving while under the
24 influence of alcohol (DUI), with a similar enhancement, was dismissed under a plea bargain.

25 b. As a result of the conviction, on June 10, 2016, Respondent was sentenced
26 to five years summary probation under standard alcohol conditions and ordered to pay fines,
27 fees, restitution, penalties, and assessments. Respondent was also ordered to attend and
28 satisfactorily complete a First Offender Alcohol Program and a Mothers Against Drunk Driving

1 Victim Impact Panel. Respondent was further ordered to complete 20 days of service under the
2 public service program, with credit for two days actually served, five days stayed pending
3 completion of probation, and the balance of 13 days to be completed at one day per week on
4 weekends.

5 c. The facts that led to the conviction are that on March 7, 2016, while
6 driving northbound on Centre City Parkway in Escondido, California, Respondent swerved
7 across several lanes of traffic and at one point drove onto the grass center median. A responding
8 officer from the Escondido Police Department (EPD) located Respondent's vehicle traveling
9 westbound on West Washington Avenue west of North Quince Street and initiated an
10 enforcement stop. During initial contact with Respondent, the officer smelled alcohol, noticed
11 Respondent's bloodshot and watery eyes, lax face and jaw, and unsteady gait. Respondent
12 admitted to consuming a few drinks prior to driving. Respondent failed to perform a series of
13 field sobriety tests as explained and demonstrated. Respondent consented to a preliminary
14 alcohol screen, where she tested a BAC of .304 percent, .278 percent, and .326 percent.
15 Respondent was arrested for DUI and was transported to the EPD, where she consented to a
16 blood draw. Respondent was subsequently transported and booked into Vista Detention Facility.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Dangerous Use of Alcohol)**

19 12. Respondent has subjected her Pharmacy Technician Registration to discipline
20 under Code section 4301, subdivision (h) in that on March 7, 2016, she used alcohol to the extent
21 and in a manner that was dangerous and injurious to herself and to the public, as described in
22 paragraph 11, above, which are incorporated by reference.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacy Technician Registration Number TCH
27 118626, issued to Samantha Anne Daggett;

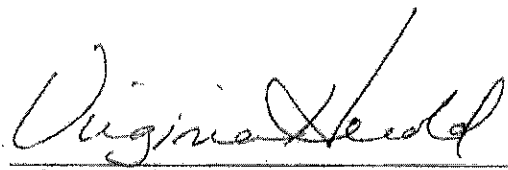
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1 2. Ordering Samantha Anne Daggett to pay the Board of Pharmacy the reasonable
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions
3 Code section 125.3; and,

4 3. Taking such other and further action as deemed necessary and proper.
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DATED: 10/14/16



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

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