

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:

**JESSICA RENEE CHASE
16212 La Joya Court
Victorville, CA 92395**

And

**JESSICA RENEE CHASE
16980 Nisqualli Road, #11204
Victorville, CA 92395**

**Pharmacy Technician Registration No. TCH
123202**

Respondent.

Case No. 6097

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 30, 2018, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 6097 against Jessica Renee Chase (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A).

1 2. On or about October 26, 2012, the Board of Pharmacy (Board) issued Pharmacy
2 Technician Registration No. TCH 123202 to Respondent. The Pharmacy Technician Registration
3 was in full force and effect at all times relevant to the charges brought in Accusation No. 6097,
4 expired on April 30, 2018, and has not been renewed. This lapse in licensure, however, pursuant
5 to Business and Professions Code sections 118(b) and 4300.1 does not deprive the Board of its
6 authority to institute or continue this disciplinary proceeding.

7 3. On or about June 1, 2018, Respondent was served by Certified and First Class Mail
8 copies of the Accusation No. 6097, Statement to Respondent, Notice of Defense, Request for
9 Discovery, Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7), and
10 Notice of Hearing at Respondent's address of record which, pursuant to Business and Professions
11 Code section 4100, is required to be reported and maintained with the Board. Respondent's
12 address of record was and is: 16212 La Joya Court, Victorville, CA 92395, and 16980 Nisqualli
13 Road, #11204, Victorville, CA 92395.

14 4. Service of the Accusation was effective as a matter of law under the provisions of
15 Government Code section 11505, subdivision (c) and/or Business and Professions Code section
16 124.

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

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

23 6. The Board takes official notice of its records and the fact that Respondent failed to
24 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
25 waived her right to a hearing on the merits of Accusation No. 6097.

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

27 (a) If the respondent either fails to file a notice of defense . . . or to appear at
28 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

1 8. Pursuant to its authority under Government Code section 11520, the Board finds
 2 Respondent is in default. The Board will take action without further hearing and, based on the
 3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
 4 taking official notice of all the investigatory reports, exhibits and statements contained therein on
 5 file at the Board's offices regarding the allegations contained in Accusation No. 6097, finds that
 6 the charges and allegations in Accusation No. 6097, are separately and severally, found to be true
 7 and correct by clear and convincing evidence.

8 9. The Board finds that the actual costs for Investigation and Enforcement are \$1,900.00 as of
 9 July 2, 2018.

10 **DETERMINATION OF ISSUES**

11 1. Based on the foregoing findings of fact, Respondent Jessica Renee Chase has
 12 subjected her Pharmacy Technician Registration No. TCH 123202 to discipline.

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

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

17 a. Business and Professions Code sections 490, 4300, and 4301, subdivision (l), in
 18 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of
 19 unprofessional conduct in that Respondent was convicted of a crime substantially related to the
 20 qualifications, functions, or duties of a registered pharmacy technician as follows:

21 i. On or about November 2, 2016, after pleading nolo contendere, Respondent was
 22 convicted of two misdemeanors, violation of Health and Safety Code section 11377, subdivision
 23 (a) [possession of dangerous drug/controlled substance], and violation of Penal Code section
 24 272(A)(1) [contributing to the delinquency of a minor] in the criminal proceeding entitled *People*
 25 *of the State of California v. Jessica Rene Chase* (Super. Ct. San Bernardino County, 2016, No.
 26 16CR-058260).

27 b. Business and Professions Code sections 4300 and 4301, subdivision (o), on the
 28 grounds of unprofessional conduct, for violating section 4060, in that Respondent violated or

1 attempted to violate the Pharmacy law when she was in possession of controlled substances and
2 dangerous drugs without valid prescriptions.

3 c. Business and Professions Code sections 4300 and 4301, subdivision (j), in
4 conjunction with section 4060, on the grounds of unprofessional conduct, in that Respondent
5 committed an act in violation of a statute of this state, of any other state, or of the United States
6 regulating controlled substances and dangerous drugs.

7 d. Business and Professions Code sections 4300 and 4301, subdivision (f), on the
8 grounds of unprofessional conduct, in that Respondent committed an act involving moral
9 turpitude, dishonesty, fraud, deceit and corruption, whether the act was committed in the course
10 of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 123202, issued to Respondent Jessica Renee Chase, 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 October 8, 2018.

It is so ORDERED on September 7, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
Victor Law, R.Ph.
Board President

62877861.DOC
DOJ Matter ID:LA2017604732

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 MARC D. GREENBAUM
Supervising Deputy Attorney General
4 State Bar No. 138213
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6316
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10
11 In the Matter of the Accusation Against:
12 **JESSICA RENEE CHASE**
16212 La Joya Court
13 Victorville, CA 92395
14 Pharmacy Technician Registration No. TCH
123202
15 Respondent.

Case No. 6097

A C C U S A T I O N

16
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 (Board).
21 2. On or about October 26, 2012, the Board issued Pharmacy Technician Registration
22 No. TCH 123202 to Jessica Renee Chase (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 April 30, 2018, unless renewed.

25 **JURISDICTION**

- 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 unless otherwise indicated.

28 **STATUTORY PROVISIONS**

1 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
2 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
3 action during the period within which the license may be renewed, restored, reissued or reinstated.

4 5. Section 490 states, in pertinent part:

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

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

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

19 “(d) The Legislature hereby finds and declares that the application of this section has been
20 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
21 554, and that the holding in that case has placed a significant number of statutes and regulations in
22 question, resulting in potential harm to the consumers of California from licensees who have been
23 convicted of crimes. Therefore, the Legislature finds and declares that this section establishes an
24 independent basis for a board to impose discipline upon a licensee, and that the amendments to this
25 section made by Senate Bill 797 of the 2007 -08 Regular Session do not constitute a change to,
26 but rather are declaratory of, existing law.”

27 6. Section 493 states:

28 “Notwithstanding any other provision of law, in a proceeding conducted by a board within

1 the department pursuant to law to deny an application for a license or to suspend or revoke a
2 license or otherwise take disciplinary action against a person who holds a license, upon the ground
3 that the applicant or the licensee has been convicted of a crime substantially related to the
4 qualifications, functions, and duties of the licensee in question, the record of conviction of the
5 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
6 and the board may inquire into the circumstances surrounding the commission of the crime in order
7 to fix the degree of discipline or to determine if the conviction is substantially related to the
8 qualifications, functions, and duties of the licensee in question.

9 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
10 'registration.'"

11 7. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or
12 revoked."

13 8. Section 4300.1 states:

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

19 9. Section 4301 states:

20 "The board shall take action against any holder of a license who is guilty of unprofessional
21 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
22 not limited to, any of the following:

23

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

27

28 "(j) The violation of any of the statutes of this state, of any other state, or of the United

1 States regulating controlled substances and dangerous drugs.

2

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

19

20 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting
21 the violation of or conspiring to violate any provision or term of this chapter or of the applicable
22 federal and state laws and regulations governing pharmacy, including regulations established by the
23 board or by any other state or federal regulatory agency. . . .”

24 PHARMACY LAW

25 10. Section 4060 states:

26 “No person shall possess any controlled substance, except that furnished to a person upon
27 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
28 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified

1 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
2 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
3 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
4 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply
5 to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
6 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
7 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
8 labeled with the name and address of the supplier or producer.

9 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician
10 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices."

11 REGULATORY PROVISIONS

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

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

19 COST RECOVERY

20 12. Section 125.3 provides that the Board may request the administrative law judge to
21 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
22 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

23 CONTROLLED SUBSTANCE / DANGEROUS DRUG

24 13. Methamphetamine is a Schedule II controlled substance pursuant to Health and Safety
25 Code section 11055, subdivision (d)(2), and is categorized as a dangerous drug pursuant to section
26 4022.

27 14. Xanax, a brand name for alprazolam, a benzodiazepine, and is a Schedule IV
28 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1), and is

1 categorized as a dangerous drug pursuant to section 4022.

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Conviction of a Substantially Related Crime)**

4 15. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
5 subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the
6 grounds of unprofessional conduct, in that Respondent was convicted of a crime substantially
7 related to the qualifications, functions or duties of a registered pharmacy technician, as follows:

8 a. On or about November 2, 2016, after pleading nolo contendere, Respondent was
9 convicted of two added misdemeanors, Count 3, violation of Health and Safety Code section
10 11377(a) [possession of dangerous drug/controlled substance], and Count 4, violation of Penal
11 Code section 272(A)(1) contributing to the delinquency of a minor] in the criminal proceeding
12 entitled *People of the State of California v. Jessica Rene Chase* (Super. Ct. San Bernardino
13 County, 2016, No. 16CR-058260). The Court sentenced Respondent to 90 days in jail, ordering
14 her to return to Glen Helen Rehab Center, placed her on three years of probation, and ordered her
15 to complete a 52-Week Child Abuse Prevention Program.

16 b. The circumstances underlying the conviction are that on or about October 21, 2016,
17 while with her children, Respondent admitted to still be under the influence and using
18 Methamphetamine approximately every other day, with her last use being October 19, 2016.
19 Respondent was found in possession of a glass pipe containing a white residue, 5.9 grams of
20 Methamphetamine individually wrapped in four baggies, a small plastic baggy with five tablets of
21 Xanax, a tin case containing 52 plastic baggies, one black scale, two straws, 11 cotton swabs, one
22 lottery ticket, one pair of medical scissors, one photo scope and one purple vibrator.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Possession of Controlled Substances/Dangerous Drugs)**

25 16. Respondent is subject to disciplinary action under sections 4300, and 4301,
26 subdivision (o), on the grounds of unprofessional conduct, for violating section 4060, in that on
27 and between October 19 and 21, 2016, Respondent violated or attempted to violate the Pharmacy
28 law when she was in possession of controlled substances and dangerous drugs, Methamphetamine

1 and Xanax, without valid prescriptions. The crimes or acts are substantially related to the
2 qualifications, functions, or duties of a registered pharmacy technician. Complainant refers to and
3 by this reference incorporates the allegations set forth above in paragraph 15, inclusive, as though
4 set forth fully.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Violating Drug Statutes)**

7 17. Respondent is subject to disciplinary action under sections 4300, 4301, subdivision (j),
8 on the grounds of unprofessional conduct, in that on and between October 19 and 21, 2016,
9 Respondent violated Health and Safety Code section 11377, subdivision (a), when she was in
10 possession of controlled substances and dangerous drugs, Methamphetamine and Xanax, without
11 valid prescriptions. Complainant refers to and by this reference incorporates the allegations set
12 forth above in paragraphs 15 and 16, inclusive, as though set forth fully.

13 **FOURTH CAUSE FOR DISCIPLINE**

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

15 18. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision
16 (f), on the grounds of unprofessional conduct, in that on and between October 19 and 21, 2016,
17 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.
18 Complainant refers to and by this reference incorporates the allegations set forth above in
19 paragraphs 15 - 17, inclusive, as though set forth fully.

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 123202, issued
24 to Jessica Renee Chase;

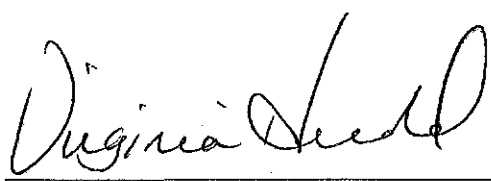
25 2. Ordering Jessica Renee Chase to pay the Board the reasonable costs of the
26 investigation and enforcement of this case, pursuant to section 125.3; and,

27 ///

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: 3/30/18



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

LA2017604732
52833946.doc