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

12 In the Matter of the Statement of Issues Against:	Case No. 4420
13 CHARLES LOUIS PECKERMAN	
14 Applicant for Pharmacy Technician License	STATEMENT OF ISSUES
15 Respondent.	

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about February 17, 2012, the California State Board of Pharmacy (Board)
22 received an application for Pharmacy Technician License from Charles Louis Peckerman
23 (Respondent). On or about February 12, 2012, Respondent certified under penalty of perjury to
24 the truthfulness of all statements, answers, and representation in the application. The Board
25 denied the application on or about July 3, 2012.

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1 JURISDICTION

2 3. This Statement of Issues is brought before the Board of Pharmacy, Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

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

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

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

9 ...

10 (2) Placing him or her upon probation.

11 ...

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

14 (c) The Board may refuse a license to any applicant guilty of
unprofessional conduct. The board may, in its sole discretion, issue a probationary
15 license to any applicant for a license who is guilty of unprofessional conduct and who
has met all other requirements for licensure.

16 ...

17 5. Section 4301 of the Code states, in pertinent part:

18 The board shall take action against any holder of a license who is guilty
19 of unprofessional conduct or whose license has been procured by fraud or
misrepresentation or issued by mistake.

20 6. Section 480 of the Code states, in pertinent part:

21 (a) a board may deny a license regulated by this code on the grounds that
22 the applicant has one of the following:

23 ...

24 (3) (A) Done any act that if done by a licentiate of the business or
profession in question, would be grounds for suspension or revocation of license.

25 (B) The Board may deny a license pursuant to this subdivision only if the
26 crime or act is substantially related to the qualifications, functions, or duties of the
business or profession for which application is made"

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7. Section 820 of the Code states:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licentiate's ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

8. Section 822 of the Code states:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

- (a) Revoking the licentiate's certificate or license.
- (b) Suspending the licentiate's right to practice.
- (c) Placing the licentiate on probation.
- (d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice his or her profession may be safely reinstated.

9. Section 4313 of the Code states:

In determining whether to grant an application for licensure or whether to discipline or reinstate a license, the board shall give consideration to evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence.

REGULATORY PROVISION

10. 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 substantial degree if it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

1 CAUSE FOR DENIAL OF APPLICATION

2 (Prior Discipline - Impairment)

3 11. Respondent's application is subject to denial under Section 480, subdivision (a) (3),
4 in that Respondent committed acts in which if committed by a licensee would be grounds for the
5 suspension or revocation of the license, as follows:

6 12. Respondent's previous license, Pharmacist License No. RPH 39310, was disciplined
7 pursuant to Section 822 of the Code in the case entitled, "*In the Matter of the Accusation Against*
8 *Charles Peckerman, Pharmacist License No. RPH 39310,*" Case No. 1986, effective on or about
9 June 18, 2003. Pursuant to the Stipulated Settlement and Disciplinary Order, Respondent's
10 license was revoked, revocation stayed, and placed on probation for three years with terms and
11 conditions, which included undergoing a mental health examination and psychotherapy. In
12 addition, based on the mental health examination and/or the psychotherapy, if Respondent was
13 determined unable to practice safely, Respondent was required to immediately stop practice and
14 not to resume practice until notified by the Board.

15 13. In the Board-adopted Stipulated Settlement and Disciplinary Order referenced above,
16 Respondent admitted the truth of each and every charge and allegation in Accusation No. 1986,
17 including that he suffers from a mental illness which, if not controlled with proper medication
18 and/or therapy, may impair his ability to safety practice as a pharmacist, and therefore his license
19 was subject to an order pursuant to Business and Professions Code Section 822.

20 14. Respondent subsequently surrendered his pharmacist license effective October 24,
21 2005.

22 15. On or about January 12, 2010, the Board received an application from Respondent for
23 Pharmacist Licensure and Examination. The application was denied on or about May 11, 2010.
24 Respondent requested a hearing. Following the hearing the Administrative Law Judge found that
25 grounds existed to deny his application pursuant to sections 480, subdivision (a)(3), and 822, and
26 California Code of Regulations, title 16, section 1770, in that Respondent committed acts that if
27 committed by a licensee would be grounds for suspension or revocation. The proposed decision
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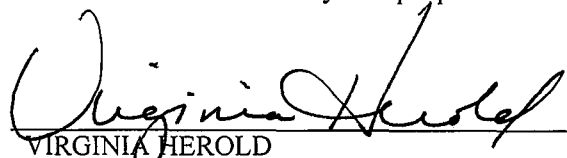
1 in Case No. 3967, which affirmed the denial of Respondent's application for a pharmacist license
2 became effective August 9, 2012.

3 **PRAYER**

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

- 6 1. Denying the application of Charles Louis Peckerman for a Pharmacy Technician
7 License and,
8 2. Taking such other and further action as deemed necessary and proper.

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10 DATED: 6/10/13


11 VIRGINIA HEROLD
12 Executive Officer
13 Board of Pharmacy
14 Department of Consumer Affairs
15 State of California
16 Complainant

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