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

In the Matter of the Accusation Against:

Case No. 4011

**JENNIFER L. STEPHENS
501 Wolf Court
Wheatland, California 95692**

DEFAULT DECISION AND ORDER

Pharmacy Technician License No. TCH 30649

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about September 1, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4011 against Jennifer L. Stephens (Respondent) before the Board of Pharmacy. (A copy of the Accusation is attached as exhibit A.)

2. On or about September 9, 1999, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 30649 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4011 and will expire on January 31, 2013, unless renewed.

3. On or about September 9, 2011, Respondent was served by Certified and First Class Mail with copies of: Accusation No. 4011; a Statement to Respondent, a Notice of Defense (2 copies); a Request for Discovery; and Discovery Statutes (Gov.Code, §§ 11507.5, 11507.6, 11507.7) at Respondent's address of record: 501 Wolf Court, Wheatland, California 95692.

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1 4. Pursuant to Business and Professions Code section 136 and/or 4100, and/or California
2 Code of Regulations, title 16, section 1704, Respondent's address of record, and any changes
3 thereto, are required to be reported and maintained with the Board.

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

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

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent
8 files a notice of defense, and the notice shall be deemed a specific denial of all parts
9 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.

10 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
11 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4011.

12 8. California Government Code section 11520 states, in pertinent part:

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

16 9. Pursuant to its authority under Government Code section 11520, the Board finds
17 Respondent is in default. The Board will take action without further hearing and, based on the
18 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
19 taking official notice of all the investigatory reports, exhibits and statements contained therein on
20 file at the Board's offices regarding the allegations contained in Accusation No. 4011, finds that
21 the charges and allegations in Accusation No. 4011, are separately and severally, found to be true
22 and correct by clear and convincing evidence.

23 10. Taking official notice of its own internal records, pursuant to Business and
24 Professions Code section 125.3, it is hereby determined that reasonable costs for Investigation
25 and Enforcement pursuant to Business and Professions Code section 125.3, are \$4,414.00 as of
26 November 4, 2011.

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DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent Jennifer L. Stephens has
3 subjected her Pharmacy Technician License No. TCH 30649 to discipline.

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

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

8 a. In violation of Business and Professions Code section 4301(b) and/or (c), Respondent
9 committed acts demonstrating incompetence and/or gross negligence when she, on or about June
10 3, 2010, returned from a lunch break staggering, stumbling and/or unsteady on her feet, speaking
11 with slurred or altered speech in a disoriented or rambling manner, and/or otherwise exhibiting
12 signs of being under the influence of alcohol or drugs;

13 b. In violation of Business and Professions Code section 4301(f), Respondent
14 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption when she, as
15 described above, returned to work from a lunch break apparently under the influence of alcohol or
16 drugs, and/or when she explained her behavior as being the result of either or both a bee sting she
17 suffered several days prior and/or her Celiac Disease (a gluten allergy), and refused to take a drug
18 or alcohol test when given that opportunity by her employer(s);

19 c. In violation of Business and Professions Code section 4301(h), Respondent self-
20 administered dangerous drugs, controlled substances, and/or alcohol to an extent or in a manner
21 so as to be dangerous or injurious to herself, another person, or the public, or to the extent that the
22 use impaired her ability to conduct with safety to the public the practice authorized by her license;

23 d. In violation of Business and Professions Code section(s) 4301(o) and/or 4327,
24 Respondent was under the influence of alcohol and/or a controlled substance while on duty;

25 e. In violation of Business and Professions Code section 4301, Respondent, as described
26 above, engaged in unprofessional conduct.

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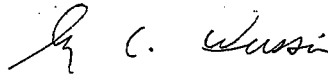
ORDER

IT IS SO ORDERED that Pharmacy Technician License No. TCH 30649, heretofore issued to Respondent Jennifer L. Stephens, 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 on March 9, 2012.

It is so ORDERED February 8, 2012.



STANLEY C. WEISSER, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

20551936.DOC
DOJ Matter ID:SF2011200940

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11
12 **JENNIFER L. STEPHENS**
501 Wolf Court
Wheatland, California 95692
13
14 **Pharmacy Technician License No. TCH 30649**
15 Respondent.

Case No. 4011

A C C U S A T I O N

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about September 9, 1999, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 30649 to Jennifer L. Stephens (Respondent). The Pharmacy Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on January 31, 2013, unless renewed.

24 JURISDICTION

- 25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code (Code) unless otherwise indicated.
28

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable
3 federal and state laws and regulations governing pharmacy, including regulations established by
4 the board or by any other state or federal regulatory agency.

5 8. Section 4327 of the Code makes it unlawful for any person, while on duty, to sell,
6 dispense or compound any drug while under the influence of a dangerous drug or alcohol.

7 COST RECOVERY

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

11 FACTUAL BACKGROUND

12 10. From an unknown start date until on or about June 15, 2010, Respondent worked as a
13 pharmacy technician at a Kaiser Permanente Pharmacy (PHY 49285) in Roseville, CA, where she
14 had access to controlled substances and dangerous drugs.

15 11. On or about June 3, 2010, Respondent was working a shift from 4:00 p.m. to 12:30
16 a.m. At or about 8:00 p.m., Respondent took a lunch break. When Respondent returned to the
17 pharmacy from her lunch break, she was observed by several Kaiser Pharmacy employees to be
18 staggering, stumbling and/or unsteady on her feet, to be using slurred or altered speech, to be
19 disoriented and rambling in her speech, and/or to exhibit other signs of being under the influence
20 of alcohol or drugs. Respondent was also observed to smell like alcohol.

21 12. After returning to work, Respondent was interviewed by Kaiser supervisory staff, and
22 suspicions of impairment were confirmed. Respondent denied being under the influence of drugs
23 or alcohol, and explained her conduct as being the result of either or both a bee sting she suffered
24 several days prior to June 3, 2010, and/or her Celiac Disease (a gluten allergy). Respondent was
25 asked to take a voluntary drug/alcohol test, and she refused.

26 13. During subsequent interview(s) with Kaiser supervisors, Respondent continued to
27 deny having ingested any alcohol or drugs on June 3, 2010.

28 14. Respondent did not respond to requests for interviews by Board investigators.

1 FIRST CAUSE FOR DISCIPLINE

2 (Incompetence and/or Gross Negligence)

3 15. Respondent is subject to discipline under section 4301(b) and/or (c) of the Code, in
4 that Respondent, as described in paragraphs 10 to 14 above, committed acts demonstrating
5 incompetence and/or gross negligence in the performance of her duties as a pharmacy technician.
6

7
8 SECOND CAUSE FOR DISCIPLINE

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

10 16. Respondent is subject to discipline under section 4301(f) of the Code, in that
11 Respondent, as described in paragraphs 10 to 14 above, committed acts involving moral
12 turpitude, dishonesty, fraud, deceit, or corruption.
13

14
15 THIRD CAUSE FOR DISCIPLINE

16 (Self-Administration of Drugs or Alcohol)

17 17. Respondent is subject to discipline under section 4301(h) of the Code, in that
18 Respondent, as described in paragraphs 10 to 14 above, administered dangerous drugs, controlled
19 substances, and/or alcohol to herself to an extent or in a manner so as to be dangerous or injurious
20 to herself, another person, or the public, or to the extent that the use impaired her ability to
21 conduct with safety to the public the practice authorized by her license.
22

23
24 FOURTH CAUSE FOR DISCIPLINE

25 (Working While Under the Influence)

26 18. Respondent is subject to discipline under section 4301(o) and/or section 4327 of the
27 Code, in that Respondent, as described in paragraphs 10 to 14 above, was under the influence of
28 alcohol and/or a controlled substance while on duty as a pharmacy technician.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 19. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 10 to 18 above, engaged in unprofessional conduct.

5
6 PRAYER

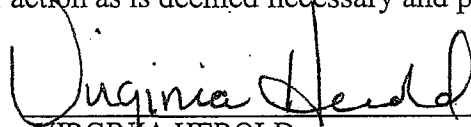
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Pharmacy issue a decision:

9 1. Revoking or suspending Pharmacy Technician License Number TCH 30649, issued
10 to Jennifer L. Stephens (Respondent);

11 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
12 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

14 DATED: 9/11/11

15 
16 VIRGINIA HEROLD
17 Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 Complainant

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