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

<p>In the Matter of the Statement of Issues Against:</p> <p>Jill Susan Rayner</p> <p style="text-align: right;">Respondent.</p>	<p>Case No. 4043</p> <p>OAH No. 2012051210</p> <p>DEFAULT DECISION AND ORDER [Gov. Code, § 11520]</p>
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FINDINGS OF FACT

1. On or about February 17, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Statement of Issues No. 4043 against Jill Suzan Rayner (Respondent) before the Board of Pharmacy.
2. On or about July 20, 2010, Respondent filed an application dated July 15, 2010, with the Board of Pharmacy to obtain a pharmacy technician registration.
3. On or about November 22, 2010, the Board issued a letter denying Respondent's application for a pharmacy technician registration. On or about January 21, 2011, Respondent appealed the Board's denial of her application and requested a hearing.
4. On or about March 9, 2012, L. Carnahan, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 4043, Statement to Respondent, Notice of Defense, Request for Discovery, Government Code sections 11507.5, 11507.6, and 11507.7, Notice from Respondent/Applicant, and Disciplinary Guidelines to

1 Respondent's address on the application form, which was and is 14504 Bradley Ridge
2 Igo, CA 96047. A copy of the Statement of Issues is attached as exhibit A, and is incorporated
3 herein by reference.

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

6 6. On or about January 21, 2011, Respondent appealed the denial of her application and
7 requested a hearing in this action. On or about June 26, 2012, a Notice of Hearing was served by
8 certified mail and regular U.S. Mail at Respondent's address on the application and the request for
9 a hearing that informed her that an administrative hearing in this matter was scheduled for
10 January 16, 2013. On or about March 12, 2013, March 20, 2013, and March 30, 2013 the U.S.
11 postal carrier attempted delivery of the certified mail, but was unsuccessful, and the envelope
12 containing the certified copy of the Notice of Hearing was returned to the Department of Justice
13 on or about April 16, 2013. Respondent failed to appear at the January 16, 2013 hearing.

14 7. Business and Professions Code section 118 states, in pertinent part:

15 (a) The withdrawal of an application for a license after it has been filed with a
16 board in the department shall not, unless the board has consented in writing to such
17 withdrawal, deprive the board of its authority to institute or continue a proceeding
18 against the applicant for the denial of the license upon any ground provided by law or
19 to enter an order denying the license upon any such ground.

20 8. Government Code section 11506 states, in pertinent part:

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

26 9. California Government Code section 11520 states, in pertinent part:

27 (a) If the respondent either fails to file a notice of defense or to appear at the
28 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; and where the burden of proof is on the respondent to establish that the
respondent is entitled to the agency action sought, the agency may act without taking
evidence.

1 10. 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
3 evidence on file herein, finds that the allegations, in Statement of Issues No. 4043 are true.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent Jill Suzan Rayner has subjected
6 her application for a pharmacy technician registration to denial.

7 2. Service of Statement of Issues No. 4043, the Notice of Hearing, and related
8 documents was proper and in accordance with the law.

9 3. The agency has jurisdiction to adjudicate this case by default.

10 4. The Board of Pharmacy is authorized to deny Respondent's application for licensure
11 based upon the multiple criminal convictions for driving under the influence of alcohol, public
12 intoxication, and driving with a suspended license, all which are violations alleged in the
13 Statement of Issues.

14 ORDER

15 IT IS SO ORDERED that the application of Respondent Jill Suzan Rayner is hereby
16 denied.

17 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
18 written motion requesting that the Decision be vacated and stating the grounds relied on within
19 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
20 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

21 This Decision shall become effective on August 21, 2013.

22 It is so ORDERED July 22, 2013.

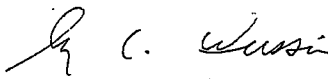
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24 
25 STANLEY C. WEISSER, BOARD PRESIDENT
26 FOR THE BOARD OF PHARMACY
27 DEPARTMENT OF CONSUMER AFFAIRS
28

Exhibit A

Statement of Issues No. 4043

Exhibit A

Statement of Issues No. 4043

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Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
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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 Statement of Issues
Against:

Case No. 4043

12 **Jill Susan Rayner**
13 **14504 Bradley Ridge**
14 **Igo, CA 96047**

STATEMENT OF ISSUES

15 Respondent.

16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 Application Information

21 2. On or about July 20, 2010, the Board of Pharmacy, Department of Consumer Affairs
22 received an application for a pharmacy technician registration from Jill Suzan Rayner
23 (Respondent). On or about July 15, 2010, Jill Suzan Rayner certified under penalty of perjury to
24 the truthfulness of all statements, answers, and representations in the application. The Board
25 denied the application on November 22, 2010. On or about January 21, 2011, Respondent
26 appealed the Board's denial of her application.

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JURISDICTION

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

4. Section 475 of the Code states:

"(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

...

(2) Conviction of a crime.

...

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

5. Section 480(a) of the Code states: "A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

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

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct. . . [that] shall include, but is not limited to, any of the following:

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances."

(l) The conviction of a crime substantially related to the qualifications,

1 functions, and duties of a licensee..."

2
3 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the
4 administrative law judge to direct a licentiate found to have committed a violation or violations of
5 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
6 enforcement of the case.

7 **FIRST CAUSE FOR DENIAL OF APPLICATION**

8 (Conviction of a Crime)

9 9. Respondent's application is subject to denial under sections 475(a)(2), 480(a)(1),
10 475 (a)(4), 490, 4301(k), and 4301(l) in that Respondent has been convicted of the following
11 crimes: On or about June 28, 1988, in a criminal proceeding entitled *People v. Jill Susan Rayner*,
12 Shasta County Municipal Court Case Number 88D294, Respondent was convicted by plea of
13 guilty to violating: (1) Vehicle Code section 23152a (driving under the influence of alcohol or
14 drugs), a misdemeanor; (2) Vehicle Code section 16028 (no proof of financial responsibility); and
15 (3) Penal Code section 166.4 (contempt of court), a misdemeanor. The circumstances of the
16 crime are that on or about February 10, 1988, Respondent was arrested for driving under the
17 influence of alcohol. Respondent's blood alcohol content measured .17/ .18 at the time of the
18 arrest. Respondent was placed on three years probation. On or about September 1, 1988,
19 Respondent's probation was revoked for failing to report to the work release program, and was
20 subsequently reinstated. On or about April 15, 1991, Respondent's probation was revoked based
21 on Respondent's second DUI conviction on or about March 1, 1991.

22 **SECOND CAUSE FOR DENIAL OF APPLICATION**

23 (Conviction of a Crime)

24 10. Respondent's application is subject to denial under sections 475(a)(2), 480(a)(1),
25 475 (a)(4), 490, 4301(k) and 4301(l) in that Respondent has been convicted of the following
26 crime: On or about March 1, 1991, in a criminal proceeding entitled *People v. Jill Susan Rayner*,
27 Shasta County Municipal Court Case Number 91D968, Respondent was convicted of violating
28 Vehicle Code section 23152a (driving under the influence of alcohol or drugs), a misdemeanor.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 (Conviction of a Crime)

3 11. Respondent's application is subject to denial under sections 475(a)(2), 480(a)(1),
4 475 (a)(4), 490, 4301(k) and 4301(l) in that Respondent has been convicted of the following
5 crime: On or about December 11, 1991, in a criminal proceeding entitled *People v. Jill Susan*
6 *Rayner*, Shasta County Municipal Court Case Number 91D3731, Respondent was convicted of
7 violating Vehicle Code section 214601 (driving on a suspended license), a misdemeanor.

8 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

9 (Conviction of a Crime)

10 12. Respondent's application is subject to denial under sections 475(a)(2), 480(a)(1),
11 475 (a)(4), 490, 4301(k) and 4301(l) in that Respondent has been convicted of the following
12 crime: On or about August 30, 1993, in a criminal proceeding entitled *People v. Jill Susan*
13 *Rayner*, Shasta County Municipal Court Case Number CRTR930004966, Respondent was
14 convicted by plea of guilty to violating Vehicle Code section 23152a (driving under the influence
15 of alcohol or drugs), a misdemeanor. The circumstances of this crime are that on August 15,
16 1993, Respondent did willfully and unlawfully, while under the influence of an alcoholic
17 beverage and a drug and under their combined influence, drive a vehicle, a misdemeanor.
18 Respondent also admitted to two prior DUI convictions. The court ordered Respondent to serve
19 150 days in county jail, suspended Respondent's license for 3 years, required Respondent to
20 abstain from alcohol, and placed Respondent under 5 years of probation.

21 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

22 (Conviction of a Crime)

23 13. Respondent's application is subject to denial under sections 475(a)(2), 480(a)(1),
24 475 (a)(4), 490, 4301(k) and 4301(l) in that Respondent has been convicted of the following
25 crime: On or about September 3, 1996, in a criminal proceeding entitled *People v. Jill Susan*
26 *Rayner*, Shasta County Municipal Court Case Number CRM 960005935, Respondent was
27 convicted by plea of guilty to violating Penal Code section 647(F) (public intoxication), a
28 misdemeanor. The circumstances of this crime are that on August 21, 1996, Respondent did

1 willfully and unlawfully be in a public place under the influence of intoxicating liquor, a drug,
2 toluene, a substance defined as a poison in Schedule D of Section 4160 of the Business and
3 Professions Code, to the extent that she was unable to exercise care for her own safety and the
4 safety of others.

5 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

6 (Conviction of a Crime)

7 14. Respondent's application is subject to denial under sections 475(a)(2), 480(a)(1),
8 475 (a)(4), 490, 4301(k) and 4301(l) in that Respondent has been convicted of the following
9 crime: On or about January 14, 2002, in a criminal proceeding entitled *People v. Jill Susan*
10 *Rayner*, Shasta County Superior Court Case Number MCRDCRT010004743, Respondent was
11 convicted by plea of guilty to violating Vehicle Code section 14601.2(A) (driving when privilege
12 suspended for prior DUI conviction), a misdemeanor. The circumstances of this crime are that on
13 June 20, 2001, Respondent did unlawfully drive a motor vehicle at the time when her driving
14 privilege was suspended and revoked for a conviction of Section 23152 and 23153 of the Vehicle
15 Code (DUI), and when she had knowledge of said suspension and revocation. Respondent was
16 also alleged to have driven illegally on a suspended license on or about October 6, 2000 in Shasta
17 County Superior Court Case No. 00-8855, which case was dismissed upon entering a guilty plea
18 in the prior proceeding. The Court Ordered Respondent to serve ten days in jail and was placed
19 on probation for 36 months.

20 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

21 (Conviction of a Crime)

22 15. Respondent's application is subject to denial under sections 475(a)(2), 480(a)(1),
23 475 (a)(4), 490, and 4301(k) and 4301(l) in that Respondent has been convicted of the following
24 crime: On or about July 14, 2008, in a criminal proceeding entitled *People v. Jill Susan Rayner*,
25 Shasta County Superior Court Case Number MC RD CRT 080003054, Respondent was
26 convicted by plea of guilty to violating Vehicle Code sections 23152A (Driving under the
27 influence of alcohol and drugs) and 23152B (driving while having a 0.08% or higher blood
28 alcohol), both misdemeanors. The circumstances of the crimes are on March 18, 2008,

1 Respondent did willfully and unlawfully, while under the influence of an alcoholic beverage and
2 a drug and under their combined influence, drive a vehicle. Respondent's blood alcohol content
3 measured 0.27% at the time of the arrest. Respondent also admitted to two prior convictions for
4 driving on a suspended license. An enhancement was issued by the court for driving with a blood
5 alcohol content over 0.15%. Respondent was Ordered by the Court to sign a declaration of non-
6 ownership of a vehicle, to not to possess, consume, or use alcohol, to serve 60 days in jail, and
7 was granted 36 months of probation.

8 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

9 (Committed Acts Which if Done by a Licentiate Would Constitute Cause for Discipline)

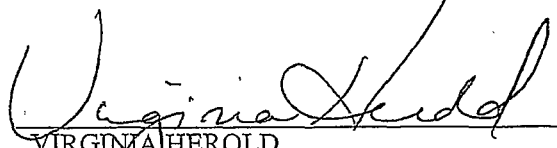
10 16. Respondent's application is subject to denial pursuant to Code section 475(A)(4), in
11 that Respondent committed acts which if done by a licentiate constitute cause for discipline
12 pursuant to Code sections 480(A)(1), 490, 4301(k) and 4301(l) as alleged in paragraphs 9 through
13 15.

14 **PRAYER**

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

- 17 1. Denying the application of Jill Suzan Rayner for registration as a Pharmacy
18 Technician;
- 19 2. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 2/17/12


22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

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