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

In the Matter of the Statement of Issues
Against:
SHANNON LYNN DUTCHESS
Respondent.

Case No. 4206
OAH No. 2012080432
DEFAULT DECISION AND ORDER
[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about May 31, 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. 4206 against Shannon Lynne Dutchess (Respondent) before the Board of Pharmacy.

2. In December of 2010, Respondent filed an application dated December 13, 2010, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.

3. On or about October 6, 2011, the Board issued a letter denying Respondent's application for a Pharmacy Technician Registration. On or about October 25, 2011, Respondent appealed the Board's denial of her application and requested a hearing.

4. On or about June 11, 2012, an employee of the Department of Justice, served by First Class Mail and again by Certified Mail copies of the Statement of Issues No. 4206, Statement to Respondent, Notice of Designation of Counsel, Request for Discovery, Government Code sections 11507.5, 11507.6, and 11507.7, and a Notice of Withdrawal of Request for Hearing to Respondent's address on the application form, which was and is P.O. Box 7491, Torrance, CA

1 7491, Torrance, CA 90504. A copy of the Statement of Issues is attached as exhibit A, and is
2 incorporated herein by reference.

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

5 6. On or about August 20, 2012, a Notice of Hearing was served by mail at
6 Respondent's address on the application as well as an alternate address of 593 Lavina Court,
7 Hemet, CA 92544 and it informed her that an administrative hearing in this matter was scheduled
8 for February 27, 2013. Respondent failed to appear at that hearing.

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

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

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

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

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

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent; and where the burden of proof is on the respondent to establish that the
26 respondent is entitled to the agency action sought, the agency may act without taking
27 evidence.

28 10. Pursuant to its authority under Government Code section 11520, the Board finds
Respondent is in default. The Board will take action without further hearing and, based on
evidence on file herein, finds that the allegations, in Statement of Issues No. 4206 are true.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Shannon Lynne Dutchess has
subjected her application for a Pharmacy Technician Registration to denial.

1 2. Service of Statement of Issues No. 4206 and related documents was proper and in
2 accordance with the law.

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

4 4. The Board of Pharmacy is authorized to deny Respondent's application for licensure
5 based upon the following violations alleged in the Statement of Issues:

6 a. Respondent's application for registration as a Pharmacy Technician is subject
7 to denial under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was
8 convicted of seven crimes that are substantially related to the qualifications, duties, and functions
9 of a Pharmacy Technician.

10 i. On or about October 31, 1997, in a criminal proceeding entitled *The*
11 *People of the State of California v. Shannon L. Dutchess*, in the Los Angeles Superior Court,
12 Santa Monica Judicial District, Case No. 7SM0456902, Respondent was convicted of violating
13 Penal Code section 484(a) (petty theft), a misdemeanor.

14 ii. On or about November 4, 1997, in a criminal proceeding entitled *The*
15 *People of the State of California v. Shannon L. Dutchess*, in the Los Angeles Superior Court,
16 Santa Monica Judicial District, Case No. 7SM467101, Respondent was convicted of violating
17 Penal Code section 484(a)/666 (petty theft with a prior), a misdemeanor.

18 iii. On or about January 21, 1998, in a criminal proceeding entitled *The*
19 *People of the State of California v. Shannon Lynne Dutchess*, in the Los Angeles County Superior
20 Court, Glendale Judicial District, in Case No. GA034361, Respondent was convicted on her plea
21 of guilty to violating Penal Code section 459 (burglary), a felony.

22 iv. On or about July 7, 1999, in a criminal proceeding entitled *The People of*
23 *the State of California v. Shannon Lynne Dutchess*, in the Los Angeles County Superior Court, in
24 Case No. 9CR2717301, Respondent was convicted on her plea of guilty to violating Penal Code
25 section 484(a) (petty theft), a misdemeanor.

26 v. On or about February 27, 2003, in a criminal proceeding entitled *The*
27 *State of Texas v. Shannon Lynne Dutchess*, in the 208th District Court of Harris County, Texas,
28

1 Cause Number 896020, Respondent was convicted on her plea of guilty to violating Texas Health
2 and Safety Code section 481.115 (possession of heroin, less than one gram).

3 vi. On or about January 13, 2006, in a criminal proceeding entitled *State of*
4 *California v. Shannon Lynne Dutchess*, in the Los Angeles County Superior Court, Case Number
5 SA055420, Respondent was convicted on her plea of guilty to violating Health and Safety Code
6 section 11377 (possession of a controlled substance - methamphetamine), a felony.

7 vii. On or about March 14, 2007, in the criminal proceeding entitled *State of*
8 *California v. Shannon Lynne Dutchess*, in the Los Angeles County Superior Court, Case Number
9 SA062234, Respondent was convicted on her plea of guilty to violating Penal Code section
10 245(a)(1), (assault with a deadly weapon), a felony.

11 b. Respondent's application is also subject to denial under sections 480, subdivision
12 (a)(2) and (c) and 4301(f) and (g), of the Code in that she committed an act of dishonesty, fraud
13 and/or deceit when, in response to the question on her application for registration as a Pharmacy
14 Technician, "Have you ever been convicted of or pled no contest to a violation of any law of a
15 foreign country, the United States or any state laws or local ordinances?" Respondent responded,
16 "No," and failed to disclose the convictions that are the subject of Causes for Denial One through
17 Seven as detailed above.

18 c. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
19 of the Code in that she committed acts, that if done by a licensed Pharmacy Technician, would be
20 grounds for suspension or revocation of the license, as detailed above.

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Exhibit A

Statement of Issues No. 4206

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
4 State Bar No. 132645
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2105
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Statement of Issues Against: Case No. 4206

12 **SHANNON LYNNE DUTCHESS**
13 **P. O. Box 7491**
14 **Torrance, CA 90504**

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 2. In or about December of, 2010, the Board of Pharmacy, Department of Consumer
21 Affairs received an application for a Pharmacy Technician Registration from Shannon Lynne
22 Dutchess (Respondent). On or about December 14, 2010, Shannon Lynne Dutchess certified
23 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
24 application. The Board denied the application on October 6, 2011.

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1 (B) The board may deny a license pursuant to this subdivision only if the crime
2 or act is substantially related to the qualifications, functions, or duties of the business
3 or profession for which application is made.

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5 7. Section 482 of the Code states:

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

8 (a) Considering the denial of a license by the board under Section 480; or

9 (b) Considering suspension or revocation of a license under Section 490.

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

12 8. Section 493 of the Code states:

13 Notwithstanding any other provision of law, in a proceeding conducted by a
14 board within the department pursuant to law to deny an application for a license or to
15 suspend or revoke a license or otherwise take disciplinary action against a person who
16 holds a license, upon the ground that the applicant or the licensee has been convicted
17 of a crime substantially related to the qualifications, functions, and duties of the
18 licensee in question, the record of conviction of the crime shall be conclusive
19 evidence of the fact that the conviction occurred, but only of that fact, and the board
20 may inquire into the circumstances surrounding the commission of the crime in order
21 to fix the degree of discipline or to determine if the conviction is substantially related
22 to the qualifications, functions, and duties of the licensee in question.

23 As used in this section, "license" includes "certificate," "permit," "authority,"
24 and "registration."

25 9. Section 4022 of the Code states

26 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
27 self-use in humans or animals, and includes the following:

28 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this
device to sale by or on the order of a _____," "Rx only," or words of similar
import, the blank to be filled in with the designation of the practitioner licensed to use
or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006.

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2 10. Section 4301 of the Code states:

3 The board shall take action against any holder of a license who is guilty of
4 unprofessional conduct or whose license has been procured by fraud or
5 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
6 not limited to, any of the following:

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

11 (g) Knowingly making or signing any certificate or other document that falsely
12 represents the existence or nonexistence of a state of facts.

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14 (l) The conviction of a crime substantially related to the qualifications,
15 functions, and duties of a licensee under this chapter. The record of conviction of a
16 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
17 States Code regulating controlled substances or of a violation of the statutes of this
18 state regulating controlled substances or dangerous drugs shall be conclusive
19 evidence of unprofessional conduct. In all other cases, the record of conviction shall
20 be conclusive evidence only of the fact that the conviction occurred. The board may
21 inquire into the circumstances surrounding the commission of the crime, in order to
22 fix the degree of discipline or, in the case of a conviction not involving controlled
23 substances or dangerous drugs, to determine if the conviction is of an offense
24 substantially related to the qualifications, functions, and duties of a licensee under this
25 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
26 contendere is deemed to be a conviction within the meaning of this provision. The
27 board may take action when the time for appeal has elapsed, or the judgment of
28 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
Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
dismissing the accusation, information, or indictment.

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REGULATORY PROVISIONS

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

(a) When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

1 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under
2 consideration as grounds for denial under Section 480 of the Business and Professions
3 Code.

4 (3) The time that has elapsed since commission of the act(s) or crime(s) referred
5 to in subdivision (1) or (2).

6 (4) Whether the applicant has complied with any terms of parole, probation,
7 restitution or any other sanctions lawfully imposed against the applicant.

8 (5) Evidence, if any, of rehabilitation submitted by the applicant.

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

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

17 DRUGS

18 13. Heroin is a Schedule I controlled substance pursuant to Health and Safety Code
19 section 11054, subdivision (c)(11), and is a dangerous drug pursuant to Business and Professions
20 Code section 4022.

21 14. Methamphetamine is a Schedule II controlled substance as designated by Health
22 and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and
23 Professions Code section 4022.

24 FIRST CAUSE FOR DENIAL OF APPLICATION

25 (October 31, 1997 Criminal Conviction for Petty Theft October 30, 1997)

26 15. Respondent's application for registration as a pharmacy technician is subject to denial
27 under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was convicted
28 of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy
technician. The circumstances are as follows:

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1 16. On or about October 31, 2007, in a criminal proceeding entitled *The People of the*
2 *State of California v. Shannon L. Dutchess*, in the Los Angeles Superior Court, Santa Monica
3 Judicial District, Case No. 7SM0456902, Respondent was convicted of violating Penal Code
4 section 484(a) (petty theft), a misdemeanor.

5 17. As a result of the conviction, the Court ordered that Respondent be placed on one
6 year probation and ordered her to serve two days in the county jail.

7 18. The facts and circumstances that led to the conviction are that on or about
8 October 30, 1997, Santa Monica Police Department officers were dispatched to the Macy's
9 Department Store in Santa Monica, CA, regarding two petty theft suspects in custody. Upon
10 arrival, officers made contact with security personnel who gave officers a copy of the store theft
11 report and two Polaroid photographs of the stolen merchandise. Security personnel informed
12 officers that at about 2045 hours, they were monitoring their security system when they saw two
13 women, one of which was Respondent, take items from the display racks and shelves and place
14 the items in their purses, then walk out of the store without paying for the items. The suspects
15 were detained outside the store by security personnel and escorted back into the store.

16 19. Security personnel recovered the stolen items and Respondent was placed under
17 arrest. Santa Monica Police officers transported Respondent to the Santa Monica County Jail and
18 booked. Officers found Respondent had two outstanding warrants and was booked for the
19 warrants as well.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(November 4, 1997 Criminal Conviction for Petty Theft With a Prior)**

22 20. Respondent's application for registration as a pharmacy technician is subject to denial
23 under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was convicted
24 of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy
25 technician. The circumstances are as follows:

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1 21. On or about November 4, 1997, in a criminal proceeding entitled *The People of the*
2 *State of California v. Shannon L. Dutchess*, in the Los Angeles Superior Court, Santa Monica
3 Judicial District, Case No. 7SM467101, Respondent was convicted of violating Penal Code
4 section 484(a)/666 (petty theft with a prior), a misdemeanor.

5 22. As a result of the conviction, the Court ordered that Respondent be placed on two
6 years probation and ordered her to serve thirty (30) days in the county jail.

7 23. The facts and circumstances that led to the conviction are that on or about
8 November 4, 1997, Santa Monica Police Department officers were dispatched to the Sears
9 Department Store located on Colorado Avenue in Santa Monica, CA, regarding a petty theft
10 suspect in custody.

11 24. Upon arrival, officers made contact with Sears loss prevention staff, who informed
12 officers that at approximately 1810 hours, they observed Respondent carrying a stack of Levi
13 jeans with the tags still on them, and quickly walk down the escalator towards the east doors.
14 Respondent was observed to pass several cash registers on her way out of the store without
15 making an attempt to pay for the merchandise she was carrying.

16 25. Respondent was stopped in the parking lot by security personnel who asked to see
17 sales receipts for the merchandise, which Respondent could not produce. As security personnel
18 were talking to Respondent, they noticed a blue 2-door Toyota Corolla vehicle with a white male
19 waiting in the car behind the driver's seat. Respondent told security personnel that the male in
20 the car was waiting for her to steal the jeans and come out of the store. The male then fled the
21 scene in the vehicle.

22 26. Respondent confessed to stealing 10 pairs of jeans and claimed she did it for her
23 boyfriend who was the suspect in the vehicle. Respondent said her boyfriend was a drug user and
24 desperately needed money to buy more drugs and that this was the reason for the theft.
25 Respondent also told staff that she had been arrested the previous Thursday at Macy's
26 Department Store for theft. Santa Monica Police officers took Respondent into custody and
27 booked her at the Santa Monica County Jail.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(January 21, 1998 Criminal Conviction for Burglary)**

3 27. Respondent's application for registration as a pharmacy technician is subject to denial
4 under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was convicted
5 of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy
6 technician. The circumstances are as follows:

7 28. On or about January 21, 1998, in a criminal proceeding entitled *The People of the*
8 *State of California v. Shannon Lynne Dutchess*, in the Los Angeles County Superior Court,
9 Glendale Judicial District, in Case No. GA034361, Respondent was convicted on her plea of
10 guilty to violating Penal Code section 459 (burglary), a felony.

11 29. As a result of the conviction, the Court ordered that Respondent be placed on three
12 years probation, ordered her to serve 180 days in the county jail.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(July 7, 1999 Criminal Conviction for Petty Theft)**

15 30. Respondent's application for registration as a pharmacy technician is subject to denial
16 under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was convicted
17 of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy
18 technician. The circumstances are as follows:

19 31. On or about July 7, 1999, in a criminal proceeding entitled *The People of the State of*
20 *California v. Shannon Lynne Dutchess*, in the Los Angeles County Superior Court, in Case
21 No. 9CR2717301, Respondent was convicted on her plea of guilty to violating Penal Code
22 section 484(a) (petty theft), a misdemeanor.

23 32. As a result of the conviction, the Court ordered that Respondent be placed on one
24 year probation, ordered her to serve five days in the county jail.

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1 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

2 **(February 27, 2003 Criminal Conviction for Possession of Heroin, Less Than One Gram,**
3 **on December 6, 2001)**

4 33. Respondent's application for registration as a pharmacy technician is subject to denial
5 under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was convicted
6 of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy
7 technician. The circumstances are as follows:

8 34. On or about February 27, 2003, in a criminal proceeding entitled *The State of Texas v.*
9 *Shannon Lynne Dutchess*, in the 208th District Court of Harris County, Texas, Cause Number
10 896020, Respondent was convicted on her plea of guilty to violating Texas Health and Safety
11 Code section 481.115 (possession of heroin, less than one gram).

12 35. As a result of the conviction, the Court ordered that Respondent be placed on three
13 years probation, ordered her to serve seven months in the State Jail Division, with 18 days credit
14 for time served, and ordered Respondent to pay a \$500 fine and \$273 in Court costs.

15 36. The facts and circumstances that led to the conviction are that on or about
16 December 6, 2001, Houston, Texas Police Department officers were dispatched to the Neiman
17 Marcus store reference a shoplifting suspect. Upon arrival, officers were informed that
18 Respondent was detained by security for shoplifting. It was determined that Respondent
19 attempted to shoplift three items of clothing while at the Neiman Marcus store. The combined
20 value of the items was \$400. Officers placed Respondent under arrest and, while searching her
21 purse, found a spoon in her handbag with heroin on it.

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1 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

2 **(January 13, 2006 Criminal Conviction for Possession of a Controlled Substance –**
3 **Methamphetamine – on February 16, 2005)**

4 37. Respondent's application for registration as a pharmacy technician is subject to denial
5 under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was convicted
6 of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy
7 technician. The circumstances are as follows:

8 38. On or about January 13, 2006, in a criminal proceeding entitled *State of California v.*
9 *Shannon Lynne Dutchess*, in the Los Angeles County Superior Court, Case Number SA055420,
10 Respondent was convicted on her plea of guilty to violating Health and Safety Code section
11 11377 (possession of a controlled substance - methamphetamine), a felony. As a result of a plea
12 agreement, original counts for violating Health and Safety Code sections 11378 (possession for
13 sale of a controlled substance) and 11364 (possession of drug paraphernalia), a misdemeanor,
14 were dismissed.

15 39. On May 4, 2005, as a result of the plea, the Court granted Respondent deferred entry
16 of judgment pursuant to Penal Code section 1000 for 18 months. The Court ordered Respondent
17 to pay various fines and fees, not use or possess any narcotics, dangerous or restricted drugs or
18 drug paraphernalia, except with a valid prescription, to stay away where buyers or sellers
19 congregate, not associate with persons believed to be or known to be narcotic sellers or buyers,
20 except in an authorized drug counseling program, not drink or possess any alcoholic beverage,
21 stay out of places where alcohol is the chief item of sale, cooperate with probation officers in a
22 plan for completion of the deferred entry of judgment, obey all laws and orders of the court, obey
23 all rules and regulations of the probation department, and to seek and maintain employment or
24 schooling.

25 40. From May 4, 2005 through January 13, 2006, the criminal matter was continued
26 seven (7) times to give Respondent the opportunity to file proof with the Court of enrollment in
27 the Deferred Entry of Judgment program, which Respondent failed to do. On January 13, 2006,
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1 Respondent failed to appear at the hearing scheduled, the deferred entry of judgment was
2 terminated, criminal proceedings reinstated, and a bench warrant was issued for Respondent's
3 arrest. On the same date, the court convicted Respondent of violating Health and Safety Code
4 section 11377.

5 41. On February 21, 2006, Respondent appeared in Court and the bench warrant was
6 recalled. The Court ordered that Respondent serve nine (9) days in the Los Angeles County Jail
7 and Respondent was placed on probation for three years, ordered to pay various fines and fees,
8 ordered Respondent to submit to search and seizure, to keep probation officer advised of
9 residence and work telephone numbers at all times, and to register with the local police agency as
10 a narcotic offender.

11 42. On October 20, 2010, Respondent filed a motion to dismiss her conviction. On the
12 same date, a hearing was held and Respondent's Petition for Relief under Penal Code section
13 1203.4 was granted because Respondent complied with the terms of probation. Respondent's
14 plea of guilty was set aside and the case was dismissed.

15 **SEVENTH CAUSE FOR DENIAL OF APPLICATION**

16 **(November 21, 2006 Criminal Conviction for Assault With a Deadly Weapon**
17 **on or About October 16, 2006)**

18 43. Respondent's application for registration as a pharmacy technician is subject to denial
19 under section 480, subdivision (a)(1) and 4301(l) of the Code in that Respondent was convicted
20 of a crime that is substantially related to the qualifications, duties, and functions of a pharmacy
21 technician. The circumstances are as follows:

22 44. On or about November 21, 2006, the Los Angeles District Attorney's Office filed a
23 felony complaint against Respondent alleging violation of Penal Code section 245(a)(1), (assault
24 with a deadly weapon), in the criminal proceeding entitled *State of California v. Shannon Lynne*
25 *Dutchess*, in the Los Angeles County Superior Court, Case Number SA062234. On
26 December 26, 2006, Respondent was arrested and arraigned. The warrant was recalled and
27 Respondent was remanded to custody.
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1 45. On January 10, 2007, a preliminary hearing took place. The matter was continued to
2 March 14, 2007, at which time Respondent pled guilty to violating Penal Code section 245(a)(1),
3 (assault with a deadly weapon), a felony, and respondent admitted a special allegation pursuant to
4 Penal Code section 12022.7(A) (infliction of great bodily injury to another person).

5 46. As a result of the conviction, the court placed Respondent on formal probation for
6 three (3) years, ordered that she serve 365 days in the Los Angeles County Jail, with 83 days
7 custody and 40 days good time credit, for a total of 123 days credit. The court further ordered
8 Respondent to pay restitution to the victim, pay various fines and fees, not own, use or possess
9 any dangerous or deadly weapons, including firearms, knives or concealable weapons, not use or
10 possess narcotics, dangerous or restricted drugs or associated paraphernalia, except with a valid
11 prescription, to stay away from places where users, buyers or sellers congregate, except in an
12 authorized drug counseling program, submit to periodic anti-narcotic tests as directed by the
13 probation officer, not associate with known narcotic or drug users or sellers, not annoy, harass or
14 molest anyone involved in the case, not threaten anyone, not use force or violence against anyone,
15 seek and maintain training, schooling or employment as approved by the probation officer,
16 cooperate with the probation officer in a plan for substance abuse counseling, submit person and
17 property to search and seizure, maintain residence as approved by probation officer, obey all laws
18 and orders of the court and rules and regulations of the probation department, not commit similar
19 offenses during the probationary period, provide DNA samples, and to report to probation officer
20 within 24 hours after release from custody.

21 47. On December 21, 2007, a hearing was held and Respondent's probation was revoked
22 for violating probation. Respondent admitted in open court that she violated probation.
23 Probation was reinstated and Respondent was ordered to enroll in and complete an out-patient
24 drug program. On September 25, 2008, Respondent's probation was revoked for violating
25 probation. A hearing was held and Respondent's probation was reinstated with modifications.
26 The court ordered Respondent to enroll in and complete an out-patient drug program and to attend
27 N.A. meetings at least once a week pending her enrollment in the out-patient drug program.
28

1 48. On September 28, 2008, a hearing was held and Respondent's probation was revoked
2 for violating probation. Respondent admitted in open court that she violated probation.
3 Respondent's counsel was directed by the court to locate a residential drug program for
4 Respondent and Respondent was remanded to custody.

5 49. On October 9, 2008, Respondent was again found to be in violation of probation.
6 Respondent admitted in open court that she violated probation. Probation was reinstated with
7 same terms and conditions and modifications. Respondent was ordered to enroll in and complete
8 a six (6) month residential drug program in the Clare Foundation House in Santa Monica.
9 Respondent was ordered released to her uncle for transportation to the facility and ordered that
10 Respondent be transported directly to the facility.

11 50. On May 14, 2010, Respondent filed a motion to dismiss her conviction. On the same
12 date, a hearing was held and Respondent's Petition for Relief under Penal Code section 1203.4
13 was granted because Respondent complied with the terms of probation. Respondent's plea of
14 guilty was set aside and the case was dismissed.

15 **EIGHTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Act Involving Dishonesty, Fraud, or Deceit)**

17 51. Respondent's application is subject to denial under sections 480, subdivision (a)(2)
18 and (c) and 4301(f) and (g), of the Code in that she committed an act of dishonesty, fraud and/or
19 deceit when, in response to the question on his application for registration as a pharmacy
20 technician, "Have you ever been convicted of or pled no contest to a violation of any law of a
21 foreign country, the United States or any state laws or local ordinances? You must include all
22 misdemeanor and felony convictions, regardless of the age of the conviction, including those
23 which have been set aside under Penal Code section 1203.4. Traffic violations of \$500 or less
24 need not be reported. If "yes," attach an explanation including the type of violation, the date,
25 circumstances, location and the complete penalty received. In addition to this written
26 explanation, please provide the Board of Pharmacy with certified copies of all pertinent court
27 documents or arrest reports relating to this conviction" Respondent responded, "No," and failed to
28

1 disclose the convictions that are the subject of Causes for Denial One through Five, and the
2 convictions and subsequent dismissal of convictions per Penal Code section 1203.4 that are the
3 subject of Causes for Denial Six and Seven.

4 **NINTH CAUSE FOR DENIAL OF APPLICATION**

5 **(Commission of Acts Which if Done by a Licensee Would be**
6 **Grounds for Suspension or Revocation of License)**

7 52. Respondent's application is subject to denial under sections 480, subdivision (a)(3)(A)
8 of the Code in that she committed acts, that if done by a licensed pharmacy technician, would be
9 grounds for suspension or revocation of the license. The circumstances are as follows:

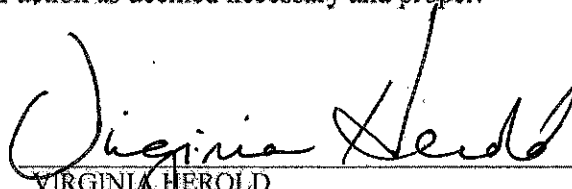
10 53. On or about October 31, 1997, November 4, 1997, January 21, 1998, July 7, 1999,
11 February 27, 2003, January 13, 2006, and November 21, 2006, as detailed in paragraphs 15
12 through 51, above, Respondent was convicted of crimes substantially related to the qualifications,
13 functions, and duties of a licensed pharmacy technician, which would be grounds for discipline
14 under section 4301, subdivision (f) and (l) of the Code.

15 **PRAYER**

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

- 18 1. Denying the application of Shannon Lynne Dutchess for a Pharmacy Technician
19 Registration;
20 2. Taking such other and further action as deemed necessary and proper.

21
22
23 DATED: 5/31/12



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

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