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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:

CHARLES LOUIS PECKERMAN

Respondent.

Case No. 4420
DEFAULT DECISION AND ORDER

[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about June 10, 2013, 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. 4420 against Charles Louis Peckerman (Respondent) before the Board of Pharmacy.
2. On or about February 17, 2012, Respondent filed an application dated February 12, 2012, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.
3. On or about July 3, 2012, the Board issued a letter denying Respondent's application for a Pharmacy Technician Registration. On or about July 17, 2012. Respondent appealed the Board's denial of his application and requested a hearing.
4. On or about June 18, 2013, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 4420, Statement to

1 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
2 11507.6, and 11507.7 to Respondent's address on the application form, which was and is
3 2508 Freedom Way, Medford, Oregon 97504.

4 A copy of the Statement of Issues is attached as exhibit A, and is incorporated herein by
5 reference.

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

8 6. A Notice of Hearing was served by mail at Respondent's address on the application
9 and it informed him that an administrative hearing in this matter was scheduled for February 20,
10 2014. Respondent failed to appear at that hearing.

11 7. Government Code section 11506 states, in pertinent part:

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

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

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

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing based upon the
26 allegation set forth in the Statement of Issues and Respondent's failure to establish entitlement to
27 issuance of a license.

28 DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Charles Louis Peckerman has
subjected his application for a Pharmacy Technician Registration to denial.

2. Service of Statement of Issues No. 4420 and related documents was proper and in
accordance with the law.

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

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

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

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

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

21 c. Respondent subsequently surrendered his pharmacist license effective October 24,
22 2005.

23 d. On or about January 12, 2010, the Board received an application from Respondent for
24 a new Pharmacist License. The application was denied on or about May 11, 2010. Respondent
25 requested a hearing. Following the hearing the Administrative Law Judge found that grounds
26 existed to deny his application pursuant to sections 480, subdivision (a)(3), and 822, and
27 California Code of Regulations, title 16, section 1770, in that Respondent committed acts that if
28 committed by a licensee would be grounds for suspension or revocation. The proposed decision

1 in Case No. 3967, which affirmed the denial of Respondent's application for a pharmacist license
2 became effective August 9, 2012.

3 ORDER

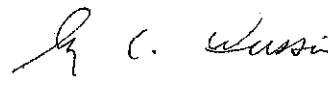
4 IT IS SO ORDERED that the application of Respondent Charles Louis Peckerman is
5 hereby denied.

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

10 This decision shall become effective on May 5, 2014.

11 It is so ORDERED on April 4, 2014.

12 BOARD OF PHARMACY
13 DEPARTMENT OF CONSUMER AFFAIRS
14 STATE OF CALIFORNIA

15 
16 By _____
17 STAN C. WEISSER
18 Board President

17 SA2012107821

18 Exhibit A: Statement of Issues No. 4420

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Exhibit A

Statement of Issues No. 4420

1 KAMALA D. HARRIS
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2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 KENT D. HARRIS
Supervising Deputy Attorney General
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Sacramento, CA 94244-2550
6 Telephone: (916) 324-7859
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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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1 7. Section 820 of the Code states:

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

10 8. Section 822 of the Code states:

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

15 (a) Revoking the licentiate's certificate or license.

16 (b) Suspending the licentiate's right to practice.

17 (c) Placing the licentiate on probation.

18 (d) Taking such other action in relation to the licentiate as the licensing
19 agency in its discretion deems proper.

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

25 9. Section 4313 of the Code states:

26 In determining whether to grant an application for licensure or whether to
27 discipline or reinstate a license, the board shall give consideration to evidence of
28 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
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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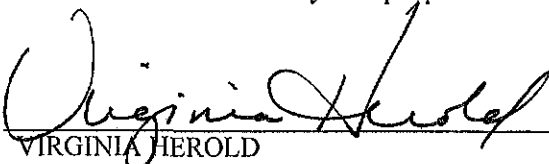
1 in Case No. 3967, which affirmed the denial of Respondent's application for a pharmacist license
2 became effective August 9, 2012.

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.

9
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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