

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

In the Matter of the Statement of Issues Against:

Case No. 4680

ANDREAL LEWIS

Pharmacy Technician Registration Applicant

Respondent.

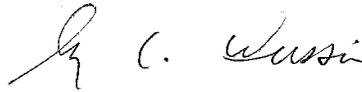
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 28, 2013.

It is so ORDERED on October 22, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues Against:
11 **ANDREAL ANN LEWIS**
12 **Applicant for Pharmacy Technican License**
13
14 Respondent.

Case No. 4680

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 In the interest of a prompt and speedy settlement of this matter, consistent with the public
16 interest and responsibility of the Board of Pharmacy, Department of Consumer Affairs, the parties
17 hereby agree to the following Stipulated Settlement and Disciplinary Order to be submitted to the
18 Board for approval and adoption as the final disposition of the Statement of Issues.

19 PARTIES

20 1. Virginia Herold (Complainant), Executive Officer, Board of Pharmacy, brought this
21 action solely in her official capacity and is represented by Kamala D. Harris, Attorney General of
22 the State of California, by Joshua A. Room, Supervising Deputy Attorney General.

23 2. Andreal Ann Lewis (Respondent) is representing herself in this proceeding and has
24 chosen not to exercise her right to be represented by counsel.

25 3. On or about October 26, 2012, the Board of Pharmacy, Department of Consumer
26 Affairs received an Application for Registration as a Pharmacy Technician from Andreal Ann
27 Lewis (Respondent). On or about October 24, 2012, Respondent certified under penalty of
28 perjury the truthfulness of all statements, answers, and representations in the application.

1 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
2 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
3 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
4 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
5 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
6 not be disqualified from further action by having considered this matter.

7 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
8 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
9 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

10 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
11 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
13 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
14 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
15 writing executed by an authorized representative of each of the parties.

16 13. In consideration of the foregoing, the parties agree that the Board may, without
17 further notice or formal proceeding, issue and enter the following Disciplinary Order:

18 **DISCIPLINARY ORDER**

19 IT IS HEREBY ORDERED that upon satisfaction of statutory and regulatory requirements
20 for issuance thereof, a Pharmacy Technician License shall be issued to Andreal Ann Lewis
21 (Respondent), and immediately revoked. Revocation is stayed and the License is placed on
22 probation for three (3) years on the terms and conditions detailed below

23 **1. Certification Prior to Resuming Work**

24 Respondent shall be automatically suspended from working as a pharmacy technician until
25 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
26 satisfactory proof of certification to the board. Respondent shall not resume working as a
27 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
28 year shall be considered a violation of probation.

1 During suspension, respondent shall not enter any pharmacy area or any portion of any
2 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
3 distributor of drugs), any drug manufacturer, or any other location where dangerous drugs and
4 devices or controlled substances are maintained. Respondent shall not do any act involving drug
5 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
6 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
7 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
8 substances. Respondent shall not resume work until notified by the board.

9 Failure to comply with this suspension shall be considered a violation of probation.

10 **2. Obey All Laws**

11 Respondent shall obey all state and federal laws and regulations.

12 Respondent shall report any of the following occurrences to the board, in writing, within
13 seventy-two (72) hours of such occurrence:

- 14 an arrest or issuance of a criminal complaint for violation of any provision of the
15 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
16 substances laws
- 17 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
18 criminal complaint, information or indictment
- 19 a conviction of any crime
- 20 discipline, citation, or other administrative action filed by any state or federal agency
21 which involves respondent's pharmacy technician license or which is related to the
22 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
23 or charging for any drug, device or controlled substance.

24 Failure to timely report any such occurrence shall be considered a violation of probation.

25 **3. Cooperate with Board Staff**

26 Respondent shall cooperate with the board's inspection program and with the board's
27 monitoring and investigation of respondent's compliance with the terms and conditions of her
28 probation. Failure to cooperate shall be considered a violation of probation.

1 **4. Report to the Board**

2 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
3 designee. The report shall be made either in person or in writing, as directed. Among other
4 requirements, respondent shall state in each report under penalty of perjury whether there has
5 been compliance with all the terms and conditions of probation. Failure to submit timely reports
6 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
7 in submission of reports as directed may be added to the total period of probation. Moreover, if
8 the final probation report is not made as directed, probation shall be automatically extended until
9 such time as the final report is made and accepted by the board.

10 **5. Interview with the Board**

11 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
12 with the board or its designee, at such intervals and locations as are determined by the board or its
13 designee. Failure to appear for any scheduled interview without prior notification to board staff,
14 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
15 the period of probation, shall be considered a violation of probation.

16 **6. Status of License**

17 Respondent shall, at all times while on probation, maintain an active, current pharmacy
18 technician license with the board, including any period during which suspension or probation is
19 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

20 If respondent's pharmacy technician license expires or is cancelled by operation of law or
21 otherwise at any time during the period of probation, including any extensions thereof due to
22 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
23 terms and conditions of this probation not previously satisfied.

24 **7. Notice to Employers**

25 During the period of probation, respondent shall notify all present and prospective
26 employers of the decision in case number 3946 and the terms, conditions and restrictions imposed
27 on respondent by the decision, as follows:

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1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 respondent undertaking any new employment, respondent shall cause her direct supervisor,
3 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
4 tenure of employment) and owner to report to the board in writing acknowledging that the listed
5 individual(s) has/have read the decision in case number 4680 and the terms and conditions
6 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
7 supervisor(s) submit timely acknowledgement(s) to the board.

8 If respondent works for or is employed by or through a pharmacy employment service,
9 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
10 of the terms and conditions of the decision in case number 4680 in advance of commencing work
11 at each pharmacy. A record of this notification must be provided to the board upon request.

12 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
13 (15) days of respondent undertaking any new employment by or through a pharmacy employment
14 service, respondent shall cause her direct supervisor with the pharmacy employment service to
15 report to the board in writing acknowledging that he or she has read the decision in case number
16 4680 and the terms and conditions imposed thereby. It shall be respondent's responsibility to
17 ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

18 Failure to timely notify present or prospective employer(s) or to cause employer(s) to
19 submit timely acknowledgements to the board shall be considered a violation of probation.

20 "Employment" within the meaning of this provision shall include any full-time,
21 part-time, temporary or relief service or pharmacy management service as a pharmacy
22 technician or in any position for which a pharmacy technician license is a requirement
23 or criterion for employment, whether the respondent is considered an employee,
24 independent contractor or volunteer.

24 8. **Probation Monitoring Costs**

25 Respondent shall pay any costs associated with probation monitoring as determined by the
26 board each and every year of probation. Such costs shall be payable to the board on a schedule as
27 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
28 be considered a violation of probation.

1 **9. No Ownership of Licensed Premises**

2 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
3 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
4 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
5 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
6 days following the effective date of this decision and shall immediately thereafter provide written
7 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
8 documentation thereof shall be considered a violation of probation.

9 **10. Notification of a Change in Employment, Name, Address, or Phone**

10 Respondent shall notify the board in writing within ten (10) days of any change of
11 employment. Said notification shall include the reasons for leaving, the address of the new
12 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
13 shall further notify the board in writing within ten (10) days of a change in name, residence
14 address, mailing address, or phone number. Failure to timely notify the board of any change in
15 employer, name, address, or phone number shall be considered a violation of probation.

16 **11. Employment Requirement; Tolling of Probation**

17 Except during periods of suspension, respondent shall, at all times while on probation, be
18 employed as a pharmacy technician in California for a minimum of forty (40) hours per calendar
19 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
20 the period of probation shall be extended by one month for each month during which this
21 minimum is not met. During any such period of tolling of probation, respondent must
22 nonetheless comply with all terms and conditions of probation.

23 Should respondent, regardless of residency, for any reason (including vacation) cease
24 working as a pharmacy technician for a minimum of forty (40) hours per calendar month in
25 California, respondent must notify the board in writing within ten (10) days of cessation of work
26 and must further notify the board in writing within ten (10) days of the resumption of the work.
27 Any failure to provide such notification(s) shall be considered a violation of probation.

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1 It is a violation of probation for respondent's probation to remain tolled pursuant to the
2 provisions of this condition for a total period, counting consecutive and non-consecutive months,
3 exceeding thirty-six (36) months.

4 "Cessation of work" means a calendar month during which respondent is not
5 working for at least forty (40) hours as a pharmacy technician, as defined in Business
6 and Professions Code section 4115. "Resumption of work" means any calendar
7 month during which respondent is working for at least forty (40) hours as a pharmacy
8 technician as defined by Business and Professions Code section 4115.

9 **12. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

10 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
11 attendance at a recognized and established substance abuse recovery support group in California,
12 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) that has been approved by the board or
13 its designee, attending at least one group meeting per week unless otherwise directed by the board
14 or its designee. Respondent shall continue regular attendance and submit signed and dated
15 documentation confirming attendance with each quarterly report for the duration of probation.
16 Failure to attend or submit documentation thereof shall be considered a violation of probation.

17 **13. Abstain from Drugs and Alcohol Use**

18 Respondent shall completely abstain from the possession or use of alcohol, controlled
19 substances, dangerous drugs and their associated paraphernalia except when the drugs are
20 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
21 request of the board or its designee, respondent shall provide documentation from the licensed
22 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
23 treatment of the respondent. Failure to timely provide such documentation shall be considered a
24 violation of probation. Respondent shall ensure that she is not in the same physical location as
25 individuals who are using illicit substances even if respondent is not personally ingesting the
26 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
27 not supported by the documentation timely provided, and/or any physical proximity to persons
28 using illicit substances, shall be considered a violation of probation.

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1 **14. Random Drug Screening**

2 Respondent, at her own expense, shall participate in random testing, including but not
3 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
4 screening program as directed by the board or its designee. Respondent may be required to
5 participate in testing for the entire probation period and the frequency of testing will be
6 determined by the board or its designee. At all times respondent shall fully cooperate with the
7 board or its designee, and shall, when directed, submit to such tests and samples for the detection
8 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
9 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
10 of probation. Upon request of the board or its designee, respondent shall provide documentation
11 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
12 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
13 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
14 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
15 shall be considered a violation of probation and shall result in respondent's automatic suspension.
16 Respondent may not resume work as a pharmacy technician until notified by the board in writing.

17 During any such suspension, respondent shall not enter any pharmacy area or any portion of
18 or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any
19 other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs
20 and devices or controlled substances are maintained. Respondent shall not do any act involving
21 drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall
22 respondent manage, administer, or assist any licensee of the board. Respondent shall not direct,
23 control or perform any aspect of the practice of pharmacy. Respondent shall not have access to or
24 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
25 substances. Respondent shall not resume work until notified by the board.

26 Failure to comply with any such suspension shall be considered a violation of probation.

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1 **15. Prescription Coordination and Monitoring of Prescription Use**

2 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
3 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
4 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
5 history with alcohol and drugs and who will coordinate and monitor any prescriptions for
6 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved
7 practitioner shall be provided with a copy of the board's Statement of Issues and decision.

8 A record of this notification must be provided to the board upon request. Respondent shall
9 sign a release authorizing the practitioner to communicate with the board about respondent's
10 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
11 shall report to the board on a quarterly basis for the duration of probation regarding respondent's
12 compliance with this condition. If any substances considered addictive have been prescribed, the
13 report shall identify a program for the time limited use of any such substances.

14 The board may require that the single coordinating physician, nurse practitioner, physician
15 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
16 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,
17 respondent shall notify the board immediately and, within thirty (30) days of ceasing, submit the
18 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of
19 respondent's choice to the board or its designee for its prior approval. Failure to timely submit
20 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
21 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

22 If at any time an approved practitioner determines that respondent is unable to practice
23 safely or independently as a pharmacy technician, the practitioner shall notify the board
24 immediately by telephone and follow up by written letter within three (3) working days. Upon
25 notification by the board or its designee of this determination, respondent shall be automatically
26 suspended and shall not resume practice until notified by the board that practice may be resumed.

27 During any such suspension, respondent shall not enter any pharmacy area or any portion of
28 or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any

1 other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs
2 and devices or controlled substances are maintained. Respondent shall not do any act involving
3 drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall
4 respondent manage, administer, or assist any licensee of the board. Respondent shall not direct,
5 control or perform any aspect of the practice of pharmacy. Respondent shall not have access to or
6 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
7 substances. Respondent shall not resume work until notified by the board.

8 Failure to comply with any such suspension shall be considered a violation of probation.

9 **16. Work Site Monitor**

10 Within ten (10) days of the effective date of this decision, respondent shall identify a work
11 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
12 during working hours. Respondent shall be responsible for ensuring that the work site monitor
13 reports in writing to the board quarterly. Should the designated work site monitor determine at
14 any time during the probationary period that respondent has not maintained sobriety, he or she
15 shall notify the board immediately, either orally or in writing as directed. Should respondent
16 change employment, a new work site monitor must be designated, for prior approval by the
17 board, within ten (10) days of commencing new employment. Failure to identify an acceptable
18 initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board,
19 shall be considered a violation of probation.

20 **17. Notification of Departure**

21 Prior to leaving the probationary geographic area designated by the board or its designee for
22 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
23 writing of the dates of departure and return. Failure to comply with this provision shall be
24 considered a violation of probation.

25 **18. License Surrender While on Probation/Suspension**

26 Following the effective date of this decision, should respondent cease work due to
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
28 respondent may tender her pharmacy technician license to the board for surrender.

1 The board or its designee shall have discretion whether to grant the request for surrender or
2 take any other action it deems appropriate. Upon formal acceptance of the surrender, respondent
3 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
4 record of discipline and shall become a part of the respondent's license history with the board.

5 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
6 license to the board within ten (10) days of notification by the board the surrender is accepted.
7 Respondent may not reapply for any license, permit, or registration from the board for three (3)
8 years from the effective date of the surrender. Respondent shall meet all requirements applicable
9 to the license sought as of the date the application for that license is submitted to the board.

10 **19. Violation of Probation**

11 If respondent has not complied with any term or condition of probation, the board shall
12 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
13 all terms and conditions have been satisfied or the board has taken other action as deemed
14 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
15 to impose the penalty that was stayed. If respondent violates probation in any respect, the board,
16 after giving respondent notice and an opportunity to be heard, may revoke probation and carry out
17 the disciplinary order that was stayed.

18 If a petition to revoke probation or an accusation is filed against respondent during
19 probation, the board shall have continuing jurisdiction, and the period of probation shall be
20 automatically extended until the petition to revoke probation or accusation is heard and decided.

21 **20. Completion of Probation**

22 Upon written notice by the board indicating successful completion of probation,
23 respondent's pharmacy technician license will be fully restored.

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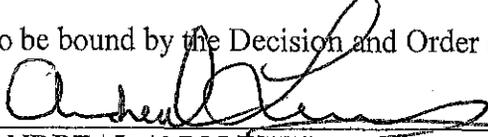
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it has on my Application for Registration as a Pharmacy Technician, and resulting License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

DATED: 9/4/13


ANDREAL ANN LEWIS
Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 9/9/2013

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JOSHUA A. ROOM
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 4680

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
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Attorneys for Complainant

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10 In the Matter of the Statement of Issues Against: Case No. 4680

11 **ANDREAL ANN LEWIS**

12 **Applicant for Pharmacy Technican License**

STATEMENT OF ISSUES

13 Respondent.
14

15
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. On or about October 26, 2012, the Board of Pharmacy, Department of Consumer
21 Affairs received an Application for Registration as a Pharmacy Technician from Andreal Ann
22 Lewis (Respondent). On or about October 24, 2012, Respondent certified under penalty of
23 perjury the truthfulness of all statements, answers, and representations in the application. The
24 Board denied the application on or about March 12, 2013.

25 JURISDICTION

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

1 e. On or about March 2, 2009, in Alameda County Superior Court, Case No.
2 417011, Respondent was convicted of violating Vehicle Code section 23152(a) (Driving Under
3 the Influence of Alcohol or Drugs), a misdemeanor.

4 SECOND CAUSE FOR DENIAL OF APPLICATION

5 (Dangerous or Injurious Use of Alcohol)

6 9. Respondent's application is subject to denial under the following section(s) of the
7 Code: 480(a)(3) by reference to 4301(h); and/or 4300(c) by reference to 4301(h), in that, as
8 described in paragraph 8 above, Respondent made dangerous or injurious use of alcohol.

9 THIRD CAUSE FOR DENIAL OF APPLICATION

10 (Unprofessional Conduct)

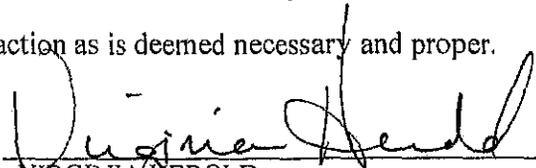
11 10. Respondent's application is subject to denial under the following section(s) of the
12 Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described
13 in paragraphs 8 and 9 above, Respondent engaged in unprofessional conduct.

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 Andreal Ann Lewis to be a pharmacy technician;
18 2. Taking such other and further action as is deemed necessary and proper.

19 DATED: 8/14/13

20 
21 VIRGINIA HEROLD
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

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