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

10 In the Matter of the Accusation Against:

Case No. 4011

11 **JENNIFER L. STEPHENS**
12 **501 Wolf Court**
13 **Wheatland, California 95692**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 30649**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

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

24 JURISDICTION

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

28

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
7 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
8 disciplinary action during the period within which the license may be renewed, restored, reissued
9 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
10 renewed within three years following its expiration may not be renewed, restored, or reinstated
11 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
12 the Code provides that any other license issued by the Board may be canceled by the Board if not
13 renewed within 60 days after its expiration, and will require a new application.

14
15 STATUTORY AND REGULATORY PROVISIONS

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
17 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
18 not be limited to, any of the following:

19 (b) Incompetence.

20 (c) Gross negligence.

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

24 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
25 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
26 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
27 to the extent that the use impairs the ability of the person to conduct with safety to the public the
28 practice authorized by the license.

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

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

7 COST RECOVERY

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

11 FACTUAL BACKGROUND

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

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

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

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

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

1 FIRST CAUSE FOR DISCIPLINE

2 (Incompetence and/or Gross Negligence)

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

7
8 SECOND CAUSE FOR DISCIPLINE

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

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

14
15 THIRD CAUSE FOR DISCIPLINE

16 (Self-Administration of Drugs or Alcohol)

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

23
24 FOURTH CAUSE FOR DISCIPLINE

25 (Working While Under the Influence)

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

1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

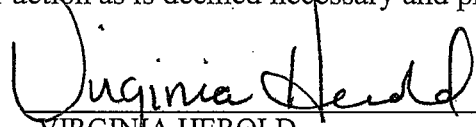
3 19. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 10 to 18 above, engaged in unprofessional conduct.

5
6 PRAYER

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

- 9 1. Revoking or suspending Pharmacy Technician License Number TCH 30649, issued
10 to Jennifer L. Stephens (Respondent);
- 11 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
12 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 13 3. Taking such other and further action as is deemed necessary and proper.

14 DATED: 9/11/11

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

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