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

11 In the Matter of the Statement of Issues  
12 Against:  
13 **SUMER LYN CANTRELL**  
14 **Pharmacy Technician Applicant**  
15 Respondent.

Case No. 5452

**WITHDRAWAL OF STATEMENT OF  
ISSUES**

16  
17 The Statement of Issues No. 5452 against Sumer Lyn Cantrell (Respondent) is withdrawn  
18 without prejudice. Respondent has withdrawn the request for a hearing regarding the denial of  
19 the application for a pharmacy technician registration. The denial of the application is affirmed.

20 DATED: August 18, 2015

21  
22  
23 

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

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

12 In the Matter of the Statement of Issues Against:	Case No. 5452
13 <b>SUMER LYN CANTRELL</b>	<b>STATEMENT OF ISSUES</b>
14 <b>Pharmacy Technician Registration Applicant</b>	
15 Respondent.	

16  
17 Complainant alleges:

18 **PARTIES**

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

22 2. On May 30, 2014, the Board of Pharmacy, Department of Consumer Affairs  
23 received an application for a Pharmacy Technician Registration from Sumer Lyn Cantrell  
24 (Respondent). On May 27, 2014, Sumer Lyn Cantrell certified under penalty of perjury to the  
25 truthfulness of all statements, answers, and representations in the application. The Board denied  
26 the application on February 13, 2015.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (c) of the Code states:

6 The board may refuse a license to any applicant guilty of unprofessional conduct.

7 **STATUTORY PROVISIONS**

8 5. Section 475 of the Code states:

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

11 (1) Knowingly making a false statement of material fact, or  
12 knowingly omitting to state a material fact, in an application for a license.

13 (2) Conviction of a crime.

14 (3) Commission of any act involving dishonesty, fraud or deceit  
15 with the intent to substantially benefit himself or another, or substantially injure  
16 another.

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

20 . . . .

21 6. Section 480 of the Code states:

22 (a) A board may deny a license regulated by this code on the grounds  
23 that the applicant has one of the following:

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

. . . .

(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.

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

4 . . . .

5 7. Section 482 of the Code states:

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

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

26 9. Section 4301 of the Code states:

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

. . . .

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

. . . .

(l) The conviction of a crime substantially related to the qualifications,  
functions, and duties of a licensee under this chapter. The record of conviction of

1 a violation of Chapter 13 (commencing with section 801) of Title 21 of the United  
2 States Code regulating controlled substances or of a violation of the statutes of  
3 this state regulating controlled substances or dangerous drugs shall be conclusive  
4 evidence of unprofessional conduct. In all other cases, the record of conviction  
5 shall be conclusive evidence only of the fact that the conviction occurred. The  
6 board may inquire into the circumstances surrounding the commission of the  
7 crime, in order to fix the degree of discipline or, in the case of a conviction not  
8 involving controlled substances or dangerous drugs, to determine if the conviction  
9 is of an offense substantially related to the qualifications, functions, and duties of  
10 a licensee under this chapter. A plea or verdict of guilty or a conviction following  
11 a plea of *nolo contendere* is deemed to be a conviction within the meaning of this  
12 provision. The board may take action when the time for appeal has elapsed, or the  
13 judgment of conviction has been affirmed on appeal or when an order granting  
14 probation is made suspending the imposition of sentence, irrespective of a  
15 subsequent order under section 1203.4 of the Penal Code allowing the person to  
16 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
17 the verdict of guilty, or dismissing the accusation, information, or indictment.

18 . . . .

## 19 REGULATORY PROVISIONS

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

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

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

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

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

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

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

. . . .

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

12 For the purpose of denial, suspension, or revocation of a personal or  
13 facility license pursuant to Division 1.5 (commencing with section 475) of the  
14 Business and Professions Code, a crime or act shall be considered substantially  
15 related to the qualifications, functions or duties of a licensee or registrant if to a

1 substantial degree it evidences present or potential unfitness of a licensee or  
2 registrant to perform the functions authorized by his license or registration in a  
3 manner consistent with the public health, safety, or welfare.

4 **FIRST CAUSE FOR DENIAL OF APPLICATION**

5 **(February 9, 2011 Conviction for Driving with a BAC of .08 % or More on July 30, 2010)**

6 12. Respondent's application for Pharmacy Technician Registration is subject to  
7 denial under Code section 480, subdivisions (a)(1) and (a)(3)(A) in that she was convicted of a  
8 crime that is substantially related to the qualifications, duties, and functions of a pharmacy  
9 technician, which would also be a ground for discipline for a registered pharmacy technician  
10 under Code section 4301, subdivision (l). The circumstances are as follows:

11 a. On February 9, 2011, in a criminal proceeding entitled *The People of the*  
12 *State of California vs. Sumer Lyn Cantrell*, in Yuba County Superior Court, Case Number TR-  
13 10-00783, Respondent was convicted on her plea of *nolo contendere* to violating Vehicle Code  
14 (VC), section 23152 subdivision (b), driving while having a blood alcohol concentration (BAC)  
15 of 0.08 percent or more, a misdemeanor. Respondent admitted and the court found true the  
16 allegation that at the time of violation of VC section 23152, Respondent's BAC was 0.15 percent  
17 or more, a sentencing enhancement under VC section 23578. A misdemeanor charge for  
18 violation of VC section 23152, subdivision (a), driving while under the influence of alcohol  
19 (DUI), with a similar enhancement, and an infraction charge for violation of VC section 38505,  
20 operating or riding an all-terrain vehicle while not wearing a safety helmet, as required, were  
21 dismissed under a plea bargain.

22 b. As a result of the conviction, on February 9, 2011, Respondent was  
23 sentenced to serve 96 hours in the Yuba County Jail and granted three years summary probation,  
24 under standard alcohol conditions. Respondent was ordered to attend and complete a nine-month  
25 DUI education program and pay fines, fees, restitution and assessments.

26 c. The facts that led to the conviction are that on July 30, 2010, without  
27 wearing a helmet, Respondent drove an all-terrain vehicle on Blue Street in Marysville,  
28 California. An officer on patrol from the Marysville Police Department, noticed Respondent's

1 violation and initiated an enforcement stop. Upon contact, the officer smelled alcohol from  
2 Respondent's person. When asked if she had anything to drink, Respondent admitted to drinking  
3 alcohol all day. Respondent agreed to take a series of field sobriety tests, which she failed to  
4 perform as explained and demonstrated. Thereafter, Respondent was transported to Rideout  
5 Memorial Hospital where she provided a blood sample. Respondent was then booked into the  
6 Yuba County Jail. On August 27, 2010, the Department of Justice Bureau of Forensic Services  
7 released Respondent's blood test result, which indicated a BAC of .31 percent.

8 **SECOND CAUSE FOR DENIAL OF APPLICATION**

9 **(Act If Done By Licentiate – Dangerous Use of Alcohol)**

10 13. Respondent's application for Pharmacy Technician Registration is subject to  
11 denial under Code section 480, subdivision (a)(3)(A) in that on July 30, 2010, she used alcohol  
12 to the extent and in a manner that was dangerous and injurious to herself and to the public, which  
13 would also be a ground for discipline for a licensed pharmacy technician under Code section  
14 4301, subdivision (h) in that the extent of the use impaired the ability of the registered person to  
15 conduct with safety to the public the practice authorized by the license.

16 **PRAYER**

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

- 19 1. Denying the application of Sumer Lyn Cantrell for a Pharmacy Technician  
20 Registration; and  
21 2. Taking such other and further action as deemed necessary and proper.

22  
23  
24 DATED: \_\_\_\_\_

7/6/15



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

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