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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:

AMY LYN STEPHENS

Applicant for a Pharmacy Technician License

Respondent.

Case No. 4163
OAH No. 2013110625
DEFAULT DECISION AND ORDER

[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about January 7, 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. 4163 against Amy Lyn Stephens (Respondent) before the Board of Pharmacy.
 2. On or about November 23, 2010, Respondent filed an application dated October 21, 2010 with the Board of Pharmacy to obtain a Pharmacy Technician License (license).
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1 3. On or about June 13, 2011, the Board issued a letter denying Respondent's application
2 for the license. On or about July 30, 2011, Respondent appealed the Board's denial of her
3 application for licensure and requested a hearing.

4 4. On or about February 8, 2013, an employee of the Department of Justice served by
5 Certified and First Class Mail a copy of the Statement of Issues No. 4163, Statement to
6 Respondent, Notice of Defense, Request for Discovery, Government Code sections 11507.5,
7 11507.6, and 11507.7, and Disciplinary Guidelines to Respondent's address on the application
8 form, which was and is 14025 Osage Road, Apple Valley, CA 92307. A copy of the Statement of
9 Issues is attached as exhibit A, and is incorporated herein by reference.

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

12 6. On or about January 6, 2014, a Notice of Hearing was served by mail at Respondent's
13 address on the application and it informed her that an administrative hearing in this matter was
14 scheduled for May 27, 2014. Respondent failed to appear at that hearing.

15 7. California Government Code section 11520 states, in pertinent part:

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

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

24 DETERMINATION OF ISSUES

25 1. Based on the foregoing findings of fact, Respondent Amy Lyn Stephens has subjected
26 her application for a Pharmacy Technician License to denial.

27 2. Service of Statement of Issues No. 4163 and related documents was proper and in
28 accordance with the law.

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

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

a. Criminal Convictions [pursuant to Code sections 475 and 480(a)(1), in conjunction with California Code of Regulations, title 16, section 1770]; Unprofessional Conduct [pursuant to Code section 480(a)(3)]; Dishonesty in Application Documents [pursuant to Code section 480(c)]; Acts Involving Dishonesty, Fraud, or Deceit [pursuant to Code section 480(a)(2)]; and Conduct Warranting License Discipline [pursuant to Code section 480(a)(3)(A)(B), in conjunction with California Code of Regulations, title 16, section 1770].

ORDER

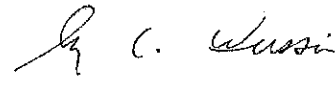
IT IS SO ORDERED that the application of Respondent Amy Lyn Stephens is hereby denied.

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

This Decision shall become effective on August 11, 2014.

It is so ORDERED July 11, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

STAN C. WEISSER
Board President

Attachment:
Exhibit A: Statement of Issues No.4163

Exhibit A

Statement of Issues No. 4163

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-2558
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
Against:
12 **AMY LYN STEPHENS**
13 14025 Osage Rd.
14 Apple Valley, CA 92307
15 Pharmacy Technician Applicant
16 Respondent.

Case No. 4163

STATEMENT OF ISSUES

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 (Board).
- 22 2. On or about November 23, 2010, the Board received an application for a Pharmacy
23 Technician License from Amy Lyn Stephens (Respondent). On or about October 21, 2010, Amy
24 Lyn Stephens certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on June 13, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 480 states, in pertinent part:

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

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, 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.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

"(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.

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

....

"(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license."

5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

1 6. Section 4300, subdivision (c), states, in pertinent part, that “[t]he board may refuse a
2 license to any applicant guilty of unprofessional conduct. . . .”

3 7. Section 4301 states, in pertinent part:

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

7
8 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
9 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
10 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.

13

14 “(l) The conviction of a crime substantially related to the qualifications, functions, and
15 duties of a licensee . . . The board may inquire into the circumstances surrounding the
16 commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not
17 involving controlled substances or dangerous drugs, to determine if the conviction is of an offense
18 substantially related to the qualifications, functions, and duties of a licensee under this
19 chapter. . . .”

20 **REGULATORY PROVISION**

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

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

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Convictions of Substantially Related Crimes)**

3 9. Respondent's application is subject to denial under sections 480, subdivisions (a)(1),
4 in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
5 convicted of crimes substantially related to the qualifications, functions or duties of a registered
6 pharmacy technician, as follows:

7 a. On or about May 27, 2009, after pleading nolo contendere, Respondent was convicted
8 of one misdemeanor count of violating Vehicle Code section 23103(a) [reckless driving], in the
9 criminal proceeding entitled *The People of the State of California vs. Amy Lyn Stephens* (Super.
10 Ct. San Bernardino County, 2009, No. 27101JW). The Court sentenced Respondent to two (2)
11 days in jail and placed her on 36 months of probation. The circumstances underlying the
12 conviction are that on or about July 5, 2008, Respondent while having a tested 0.07% blood
13 alcohol content level was driving a motor vehicle at an excessive rate of speed.

14 b. On or about May 13, 2008, after pleading nolo contendere, Respondent was convicted
15 of one misdemeanor count of violating Penal Code section 484 [theft], in the criminal proceeding
16 entitled *The People of the State of California vs. Amy Lyn Stephens* (Super. Ct. San Bernardino
17 County, 2008, No. MVI801113). The Court sentenced Respondent to one (1) day in jail, placed
18 her on 36 months of probation, and ordered her to stay away from the Target retail store, in Apple
19 Valley, CA. The circumstances underlying the conviction are that on or about February 24, 2008,
20 Respondent stole a bottle of Jose Cuervo Tequila from a Target retail store, in Apple Valley, CA.

21 c. On or about January 9, 2008, after pleading nolo contendere, Respondent was
22 convicted of one misdemeanor count of violating Penal Code section 484(a)/490.5 [theft/retail
23 merchandise] in the criminal proceeding entitled *The People of the State of California vs. Amy*
24 *Lyn Stephens* (Super. Ct. San Bernardino County, 2008, No. MVI800052). The Court sentenced
25 Respondent to nine (9) day in jail, placed her on 36 months probation, and ordered her to stay
26 away from the Mervyns department store, in Apple Valley, CA. The circumstances underlying
27 the conviction are that on or about December 27, 2007, Respondent stole a pair of Reebok shoes
28 valued at \$36.78 from a Mervyns department store, in Apply Valley, CA.

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(Dishonesty in Application Documents)**

3 10. Respondent's application is subject to denial under section 480, subdivision (c), in
4 that on or about October 21, 2010, Respondent knowingly made a false statement of fact required
5 to be revealed in her application for licensure by certifying under penalty of perjury to accuracy
6 of all statements in the application and answering "No" to question No. 6, when in fact, she had
7 ~~sustained three (3) convictions on or about January 9, 2008, May 13, 2008, and May 27, 2009.~~
8 Question 6, states:

9 Have you ever been convicted of or pled no contest to a violation of any law of a
10 foreign country, the United States or any state laws or local ordinances? You must
11 include all misdemeanor and felony convictions, regardless of the age of the
12 conviction, including those which have been set aside under Penal Code
13 section 1203.4. Traffic violations of \$500 or less need not be reported. **If "yes,"**
14 **attach an explanation including the type of violation, the date, circumstances,**
15 **location and the complete penalty received.** In addition to this written explanation,
16 please provide the Board of Pharmacy with **certified copies of all pertinent court**
17 **documents or arrest reports relating to this conviction.**

18 **THIRD CAUSE FOR DENIAL OF APPLICATION**

19 **(Acts Involving Dishonesty, Fraud, or Deceit)**

20 11. Respondent's application is subject to denial under section 480, (a)(2), in that
21 Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially
22 benefit herself and / or substantially injure another. Complainant refers to and by this reference
23 incorporates the allegations set forth above in paragraphs 9 and 10, inclusive, as though set forth
24 fully.

25 **THIRD CAUSE FOR DENIAL OF APPLICATION**

26 **(Conduct Warranting License Discipline)**

27 12. Respondent's application is subject to denial under section 480, subdivisions
28 (a)(3)(A)(B), in conjunction with California Code of Regulations, title 16, section 1770, in that

1 Respondent committed acts which if done by a licensee would be grounds for discipline.

2 Respondent violated sections, as follows:

3 a. Sections 490, 4300 and 4301, subdivision (l), on the grounds of unprofessional
4 conduct, in that on or about January 9, 2008, on or about May 13, 2008 and on or about May 27,
5 2009, Respondent sustained criminal convictions. Complainant refers to and by this reference
6 incorporates the allegations set forth above in paragraph 8, subparagraphs a, b and c, inclusive, as
7 though set forth fully.

8 b. Sections 4300 and 4301, subdivision (f), on the grounds of unprofessional conduct, in
9 that on or about December 27, 2007, and on or about February 24, 2008, Respondent committed
10 acts involving moral turpitude, dishonest, fraud, deceit, or corruption. Complainant refers to and
11 by this reference incorporates the allegations set forth above in paragraphs 8 – 11, inclusive, as
12 though set forth fully.

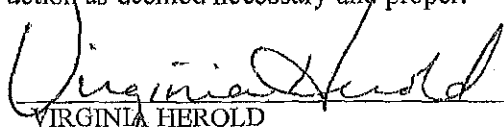
13 c. Sections 4300 and 4301, subdivision (g), on the grounds of unprofessional conduct, in
14 that on or about October 21, 2010, Respondent knowingly signed her application for licensure
15 falsely represented her criminal conviction history. Complainant refers to and by this reference
16 incorporates the allegations set forth above in paragraph 10, inclusive, as though set forth fully.

17 **PRAYER**

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

- 20 1. Denying Amy Lyn Stephens' Pharmacy Technician License Application; and
21 2. Taking such other and further action as deemed necessary and proper.

22 DATED: 1/17/13

23 
24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

27 LA2011601362
28 2/9/2012dmm
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