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

In the Matter of the Accusation Against:

DAVID WAYNE STEEN
1796 Palisades Dr.
Pacific Palisades, CA 90272

Pharmacy Technician Registration No. TCH 64086

Respondent.

Case No. 4805
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about May 8, 2014, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4805 against David Wayne Steen (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about August 10, 2005, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 64086 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4805, expired on November 30, 2014, and has not been renewed.
3. On or about June 2, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4805, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7)
2 at Respondent's address of record which, pursuant to Business and Professions Code section
3 4100, is required to be reported and maintained with the Board. Respondent's address of record
4 was and is: 1796 Palisades Dr., Pacific Palisades, CA 90272.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. Government Code section 11506 states, in pertinent part:

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

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
15 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
16 4805.

17 7. 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.

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 4805, finds that
27 the charges and allegations in Accusation No. 4805, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$3,450.00 as of January 16, 2015.

DETERMINATION OF ISSUES

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2 1. Based on the foregoing findings of fact, Respondent David Wayne Steen has
3 subjected his Pharmacy Technician Registration No. TCH 64086 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
6 Registration based upon the following violations alleged in the Accusation which are supported
7 by the evidence contained in the Default Decision Evidence Packet in this case.

8 (a) Business and Professions Code sections 4301, subdivision (l) and 490, in conjunction
9 with California Code of Regulations, title 16, section 1770, in that, Respondent was convicted of
10 a crime substantially related to the qualifications, functions or duties of a pharmacy technician as
11 follows: On or about February 8, 2013, Respondent was convicted of one misdemeanor count of
12 violating Penal code section 242-243, subdivision (E)(1) [battery] in the criminal proceeding
13 entitled *The People of the State of California v. David Wayne Steen* (Super. Ct. Los Angeles
14 County, 2013, No. 2WA02484.)

15 (b) Business and Professions Code section 4301, subdivision (f), in that Respondent
16 committed an act involving moral turpitude (battery on spouse) with the intent to substantially
17 injure another.

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ORDER

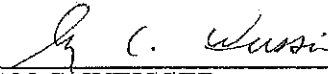
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 64086, heretofore issued to Respondent David Wayne Steen, is revoked.

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 April 10, 2015.

It is so ORDERED March 11, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

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DOJ Matter ID:LA2013510000

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

Exhibit A

Accusation

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7 *Attorneys for Complainant*

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

Case No. 4805

12 In the Matter of the Accusation Against:

A C C U S A T I O N

13 **DAVID WAYNE STEEN**
1796 Palisades Dr.
14 Pacific Palisades, CA 90272
15 Pharmacy Technician Registration
No. TCH 64086

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
22 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23 2. On or about August 10, 2005, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration No. TCH 64086 to David Wayne Steen (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on November 30, 2014, unless renewed.

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1 JURISDICTION

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

4 STATUTORY PROVISIONS

5 4. Section 490 states, in pertinent part:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of
13 the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code."

20 5. Section 4300 provides in pertinent part, that every license issued by the Boards is
21 subject to discipline, including suspension or revocation.

22 6. Section 4300.1 states:

23 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
24 of law or by order or decision of the board or a court of law, the placement of a license on a
25 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
26 jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding
27 against, the licensee or to render a decision suspending or revoking the license."

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1 7. Section 4301 states, in pertinent part:

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

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

9

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

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1 **REGULATORY PROVISIONS**

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

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

9 **COST RECOVERY**

10 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
11 law judge to direct a licentiate found to have committed a violation or violations of the licensing
12 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
13 case.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Conviction of a Substantially Related Crime)**

16 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
17 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,
18 Respondent was convicted of a crime substantially related to the qualifications, functions or duties
19 of a pharmacy technician as follows:

20 a. On or about February 8, 2013, after pleading nolo contendere, Respondent was
21 convicted of one misdemeanor count of violating Penal code section 242-243, subdivision (E)(1)
22 [battery] in the criminal proceeding entitled *The People of the State of California v. David Wayne*
23 *Steen* (Super. Ct. Los Angeles County, 2013, No. 2WA02484.) The Court sentenced Respondent
24 to serve 30 days in Los Angeles County Jail and placed him on 36 months probation, with terms
25 and conditions.

26 b. The circumstances surrounding the conviction are that on or about August 7, 2012,
27 Respondent, while under the influence of alcohol, physically assaulted his wife after she refused to
28 watch a television show with him. While informing officers from the Los Angeles Police

1 Department about the circumstances surrounding the incident, Respondent's wife told the
2 investigating officers that Respondent, who was very intoxicated at the time, had become very
3 angry and proceeded to grab her by the left wrist and throw her to the floor, causing extreme pain
4 to her left shoulder and her left wrist to go numb. Respondent's wife further stated that
5 Respondent then jumped on top of her and began to slap her with an open hand. According to
6 Respondent's wife, Respondent then grabbed the lid to a container of facial crème she was using at
7 the time and began to hit and scrape her with it about the face. The incident caused Respondent's
8 wife to sustain a fractured left wrist, and abrasions and contusions to her face and neck.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Act Involving Moral Turpitude)**

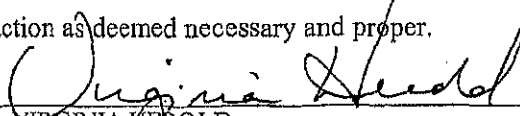
11 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
12 Respondent committed an act involving moral turpitude (battery on spouse) with the intent to
13 substantially injure another. Complainant refers to, and by reference incorporates, the allegations
14 set forth above in paragraph 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration No. TCH 64086, issued to
19 David Wayne Steen;
- 20 2. Ordering David Wayne Steen to pay the Board the reasonable costs of the
21 investigation and enforcement of this case, pursuant to section 125.3; and
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 5/8/14


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