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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:

**ERIC WAYNE WADDLE  
5601 Nicholas Street  
Bakersfield, CA 93304  
Pharmacy Technician Registration**

Respondent.

Case No. 4596  
OAH No. 2014030277

**DEFAULT DECISION AND ORDER**  
[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about July 2, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed First Amended Statement of Issues No. 4596 against Eric Wayne Waddle (Respondent) before the Board of Pharmacy.
2. On or about September 25, 2012, Respondent filed an application dated September 24, 2012, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.
3. On or about January 30, 2013, the Board issued a letter denying Respondent's application for a Pharmacy Technician Registration. On or about February 13, 2013, Respondent appealed the Board's denial of his application and requested a hearing.

1           4.    On or about July 30, 2014, an employee of the Department of Justice, served by  
2 Certified Mail a copy of the First Amended Statement of Issues No. 4596, Statement to  
3 Respondent, Notice of Defense, Request for Discovery, Government Code sections 11507.5,  
4 11507.6, and 11507.7, Notice from Respondent/Applicant, and Disciplinary Guidelines to  
5 Respondent's address on the application form, which was and is 5601 Nicholas Street  
6 Bakersfield, CA 93304. A copy of the First Amended Statement of Issues is attached as exhibit  
7 A, and is incorporated herein by reference.

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

10          6.    On or about February 13, 2013, Respondent appealed the denial of his application and  
11 requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's  
12 address on the application and it informed him that an administrative hearing in this matter was  
13 scheduled for September 2, 2014. Respondent failed to appear at that hearing.

14          7.    Government Code section 11506 states, in pertinent part:

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

20          8.    California Government Code section 11520 states, in pertinent part:

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

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

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Eric Wayne Waddle has  
3 subjected his application for a Pharmacy Technician Registration to denial.

4 2. Service of first Amended Statement of Issues No. 4596 and related documents was  
5 proper and in accordance with the law.

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

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

9 a. Business and Professions Code section 480, subdivision (a)(1) [Substantially-  
10 Related Criminal Convictions];

11 b. Business and Professions Code sections 480, subdivision (a)(3), and 4301,  
12 subdivision (g) [False Statement in Connection with Application].

13 ORDER

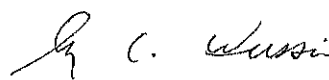
14 IT IS SO ORDERED that the application of Respondent Eric Wayne Waddle is hereby  
15 denied.

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

20 This Decision shall become effective on December 5, 2014.

21 It is so ORDERED November 5, 2014.

22 BOARD OF PHARMACY  
23 DEPARTMENT OF CONSUMER AFFAIRS  
24 STATE OF CALIFORNIA

25 By   
26 STAN C. WEISSER  
27 Board President

28 Attachment: Exhibit A (First Amended Statement of Issues No. 4596)

**Exhibit A**

**First Amended Statement of Issues No. 4596**

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
Deputy Attorney General  
4 State Bar No. 244817  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2114  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Statement of Issues  
11 Against:

12 **ERIC WAYNE WADDLE**

13 Respondent.

Case No. 4596

OAH No. 2014030277

**FIRST AMENDED STATEMENT  
OF ISSUES**

14  
15 Complainant alleges:

16 **PARTIES**

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

19 2. On or about September 25, 2012, the Board of Pharmacy (Board) received an  
20 application for a Pharmacy Technician Registration from Eric Wayne Waddle (Respondent). On  
21 or about September 24, 2012, Respondent certified under penalty of perjury to the truthfulness of  
22 all statements, answers, and representations in the application. The Board denied the application  
23 on January 30, 2013.

24 **JURISDICTION**

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

28 ///

1 **STATUTORY PROVISIONS**

2 4. Section 480 states, in pertinent part:

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

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

11 ...

12 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
13 would be grounds for suspension or revocation of license.

14 ....

15 5. Section 4301 states, in pertinent part:

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

19 ...

20 "(g) Knowingly making or signing any certificate or other document that falsely represents  
21 the existence or nonexistence of a state of facts.

22 ....

23 **REGULATORY PROVISIONS**

24 6. California Code of Regulations, title 16, section 1770 states, in pertinent part:

25 "For the purpose of denial, suspension, or revocation of a personal or facility license  
26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
27 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
28 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

1 licensee or registrant to perform the functions authorized by his license or registration in a manner  
2 consistent with the public health, safety, or welfare."

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Conviction of a Crime)**

5 7. Respondent's application is subject to denial under section 480, subdivision (a)(1), in  
6 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was  
7 convicted of a crime that, to a substantial degree, evidenced a present or potential unfitness to  
8 perform the functions of a licensed pharmacy technician in a manner consistent with the public  
9 health, safety, or welfare, as follows:

10 a. On or about February 21, 2014, in the criminal proceeding entitled *The People of the*  
11 *State of California v. Eric Wayne Waddle* (Super. Ct. Kern County, 2013, No. BM832954A,  
12 Respondent entered a plea of nolo contendere and was convicted of one misdemeanor count of  
13 violating Vehicle Code section 23152(a) [driving under influence of alcohol]. Respondent was  
14 fined and placed on probation for a period of 36 months, subject to terms and conditions.

15 b. The circumstances underlying the conviction are that on or about November 29, 2013,  
16 Respondent was involved in a traffic collision in which he was driving. Officers responding to  
17 the accident observed that Respondent appeared to be under the influence of alcohol. Respondent  
18 was arrested after he failed a series of field sobriety tests. At the time of his arrest, Respondent's  
19 blood alcohol level measured 0.18%.

20 c. On or about November 25, 2009, in the criminal proceeding entitled *The People of*  
21 *the State of California v. Eric Wayne Waddle* (Super. Ct. Kern County, 2009, No. BF129576A),  
22 Respondent entered a plea of guilty and was convicted of one felony count of violating Vehicle  
23 Code section 2800.2 [operating vehicle with intent to evade peace officer]. Respondent was  
24 sentenced to nine (9) months in jail and placed on probation for a period of three (3) years.

25 d. The circumstances surrounding the conviction are that on or about October 1, 2009,  
26 Respondent was arrested following a police chase in which a stolen vehicle he was operating  
27 crashed through a fence and into a field. The vehicle in question had been "car-jacked" minutes  
28 ///

1 before the police chase and resulting collision. After crashing the stolen vehicle, Respondent  
2 attempted to flee on foot but was caught by officers of the Bakersfield Police Department.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(False Statement)**

5 8. Respondent's application is subject to denial under section 480, subdivision (a)(3), in  
6 conjunction with section 4301, subdivision (g), in that Respondent knowingly made or signed a  
7 document that falsely represented the existence or nonexistence of a state of facts, as follows.

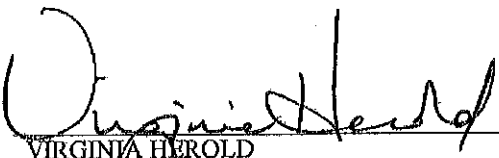
8 9. In conjunction with his application for licensure, Respondent submitted a letter to the  
9 Board with the stated purpose of detailing the specific circumstances of the conviction set forth  
10 above in paragraph 7, subparagraphs c and d. In said correspondence, received by the Board on  
11 or about December 18, 2012, Respondent falsely represented that he had been a passenger in the  
12 stolen vehicle rather than the operator of said vehicle. Complainant refers to, and by this  
13 reference incorporates, the allegations set forth above in paragraphs 7 through 9, as though set  
14 forth fully herein.

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. Denying the application of Eric Wayne Waddle for a Pharmacy Technician  
19 Registration; and  
20 2. Taking such other and further action as deemed necessary and proper.

21  
22  
23 DATED: 7/2/14

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

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1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 WILLIAM D. GARDNER  
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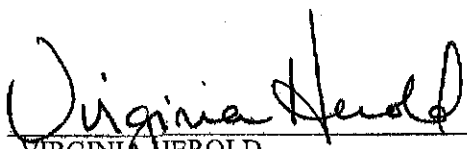
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DATED: 10/21/13



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

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