

BEFORE THE IOWA BOARD OF PHARMACY

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RE:

Application for Pharmacy Technician Trainee  
Registration of:

DIA NO. 18PHB0009

VIRGINIA ROCK,  
Applicant

DEFAULT DECISION  
OF THE BOARD

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FINDINGS OF FACT

On September 2, 2017, the Iowa Board of Pharmacy (Board) issued a Notice of Intent to Deny (Pharmacy Technician Trainee) Registration to Virginia Rock (Applicant). The Notice of Intent to Deny Registration was based on the following legal authority:

- The Board may deny a pharmacy technician trainee registration for violating any rules of the Board. *See* Iowa Code §155A.6A and 657 IAC 3.29.
- The Board may deny an application for fraud in procuring a license. *See* 657 IAC 36.1(4)"a."

The factual circumstances cited by the Board in the Notice of Intent to Deny Registration included the Applicant's failure to disclose a criminal charge on her pharmacy technician trainee registration application and the Applicant's failure to disclose all criminal charges and convictions when she applied for and obtained a pharmacy support person registration on April 11, 2016.

The Applicant filed an appeal from the Notice of Intent to Deny Registration on September 28, 2017. A hearing was scheduled for October 31, 2017 at 1:00 p.m. The Applicant was contacted by Board staff, and she agreed to the hearing date. The Applicant was served with the Notice of Hearing by restricted certified mail on October 18, 2017.

The Applicant failed to appear for the hearing before the Board on October 31, 2017 at 1:00 p.m. Assistant Attorney General Laura Steffensmeier appeared on behalf of the state. At 1:20 p.m., the assistant attorney general asked the Board to enter a default decision against the Applicant, based on her failure to appear for the hearing.

## CONCLUSIONS OF LAW

The Applicant filed an appeal and requested a hearing. The burden of proof was on the Applicant to establish that she is legally entitled to be issued the pharmacy technician trainee registration. The Board's rules at 657 IAC 35.21(2)<sup>1</sup> provide that when appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service. The Applicant was properly served with the Notice of Hearing, in accordance with 657 IAC 35.5(1). The Board was legally authorized to grant a default decision against the Applicant, based on her failure to appear for the hearing.

## DECISION AND ORDER

On October 31, 2017, the Board unanimously approved a motion in open session, which granted the state's request for a default decision. IT IS THEREFORE ORDERED that the Notice of Intent to Deny Registration issued to Virginia Rock on September 2, 2017 is hereby AFFIRMED.

Dated this 1st day of November, 2017.



Sharon Meyer, Chairperson  
Iowa Board of Pharmacy

cc: Laura Steffensmeier, Assistant Attorney General

A default decision or decision rendered on the merits after a party has failed to appear or participate in a contested case hearing shall become final board action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or unless an appeal of a decision is timely initiated within the time provided by rule 35.26. A motion to vacate must state all facts relied upon by the moving party which establish good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated shall be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) shall be attached to the motion. 657 IAC 35.21. The time for further

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<sup>1</sup> This is the rule in effect at the time of the hearing. Effective November 1, 2017, this same rule is renumbered as 35.27(2).

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appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate. 657 IAC 35.21(4).

Any aggrieved or adversely affected party may seek judicial review of this decision and order of the board, pursuant to Iowa Code section 17A.19.

**BEFORE THE IOWA BOARD OF PHARMACY**

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RE:  
Application for Pharmacy Technician Trainee  
Registration of

**NOTICE OF HEARING**

**VIRGINIA ROCK,**  
Applicant

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**A. TIME, PLACE, AND NATURE OF HEARING**

A contested case hearing shall be held on October 31, 2017. The hearing shall begin at 1:00 p.m. and shall be located in the Board conference room located at the Iowa Board of Pharmacy Office, 400 SW 8th Street, Suite E, Des Moines, Iowa, 50309. The contested case hearing will concern whether the Iowa Board of Pharmacy ("Board") will deny the pharmacy technician trainee registration application submitted by Virginia Rock ("Applicant").

**LEGAL AUTHORITY AND JURISDICTION**

1. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 155A (2017).
2. An applicant may appeal a notice of intent to deny a license application within 30 days by filing a written notice of appeal and request for a hearing with the Board, pursuant to 657 IAC 36.16.
3. A hearing regarding a license application denial is a contested case hearing conducted according to the procedures in Iowa Code chapter 17A and 657 IAC chapter 35.

**B. FACTUAL CIRCUMSTANCES**

1. On August 30, 2017, the Board voted to deny the pharmacy technician trainee registration application submitted by Applicant and issued a Notice of Intent to Deny License ("Notice").
2. On September 15, 2017, the Notice was served on Applicant. The Notice describes the factual circumstances and legal grounds supporting the Board's decision to deny the pharmacy technician trainee registration application submitted by Applicant.
3. On September 28, 2017, the Board received a timely appeal of the Notice from Applicant.

### C. HEARING INFORMATION

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Pharmacy, 400 SW 8<sup>th</sup> Street, Suite E, Des Moines, Iowa, 50309.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge from the Department of Inspections and Appeals make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing. Pursuant to 657 IAC 35.6, any party who wishes to request that an Administrative Law Judge from the Department of Inspections and Appeals serve as the presiding officer assigned to render a proposed decision must file a written request within 20 days after service of this Notice of Hearing.

Prehearing Conference. Any party may request a prehearing conference in accordance with 657 IAC 35.15 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 657 IAC chapter 35. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the factual circumstances and legal grounds cited in the Notice, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to request an alternative time or date for the hearing, you must comply with the requirements in 657 IAC 35.16. The hearing will be open to the public.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Laura Steffensmeier  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319

Ms. Steffensmeier can also be reached by phone at (515) 281-6690 or by e-mail at [laura.steffensmeier@iowa.gov](mailto:laura.steffensmeier@iowa.gov).

Communications. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

Issued on October 2, 2017.



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Andrew Funk, Pharm.D., Executive Director  
Iowa Board of Pharmacy

Copy to:

Laura Steffensmeier  
Assistant Attorney General  
Office of the Attorney General of Iowa  
1305 E. Walnut St.  
Des Moines, IA 50319  
ATTORNEY FOR THE STATE

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-5944. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).

**BEFORE THE IOWA BOARD OF PHARMACY**

RE:  
Application for Pharmacy Technician Trainee  
Registration of

**VIRGINIA ROCK,**  
Applicant

**NOTICE OF INTENT TO DENY REGISTRATION**

**COMES NOW** the Iowa Board of Pharmacy ("Board") and issues this Notice of Intent to Deny Registration to Virginia Rock ("Applicant"), 30954 Willow Ave, New Hartford IA 50660, pursuant to Iowa Code sections 17A.17 and 155A.6A. This Notice of Intent to Deny Registration is based on the following:

**A. LEGAL GROUNDS**

1. Applicants for an Iowa pharmacy technician trainee registration must apply in accordance with Iowa Code section 155A.6A and 657 IAC chapter 3.
2. The Board has the authority to deny a pharmacy technician trainee registration for violating any rules of the Board. See Iowa Code § 155A.6A(5) and 657 IAC 3.29.
3. The Board may deny an application for fraud in procuring a license. Fraud in procuring a license includes but is not limited to an intentional perversion of the truth in making application for a registration to practice as a pharmacy technician or a pharmacy support person. It includes false representations of a material fact, whether by word or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed when making application. See 657 IAC 36.1(4)"a".

**B. FACTUAL CIRCUMSTANCES**

1. On May 1, 2017, the Board received a pharmacy technician trainee registration application from Virginia Rock.
2. The application asks the following question: have you ever been charged, convicted, found guilty of, or entered a plea of guilty or no contest to a felony or misdemeanor crime (other than minor traffic violations with fines under \$100)? If you respond 'yes', please explain on a separate sheet.
3. On the application, Applicant disclosed the following criminal convictions: operating while intoxicated (2008), public intoxication (2008), public intoxication (2014), child endangerment (2012), and operating while intoxicated (2015).

4. Applicant failed to disclose a domestic abuse assault charge from 2014.

5. On April 11, 2016, Applicant was issued pharmacy support person registration number 4428, which is currently active through December 31, 2017.

6. The pharmacy support person registration application also asked the question in paragraph 2 above.

7. On the pharmacy support person registration application, Applicant disclosed two operating while intoxicated convictions, but failed to disclose the other criminal charges and convictions described in paragraphs 3 and 4 above.

8. Applicant was asked to submit all available court documentation regarding her criminal history. To date, the Board has not received any such documentation.

### **C. APPEAL RIGHTS**

1. Pursuant to the provisions of 657 IAC 3.29 and 36.16, you may appeal this Notice of Intent to Deny Registration by serving a written notice of appeal and request for hearing upon the Board not more than thirty (30) days following the date of service of this notice. Applicant's written notice of appeal and request for a hearing should be directed to Andrew Funk, Executive Director, Iowa Board of Pharmacy, 400 SW 8<sup>th</sup> St, Ste E, Des Moines IA 50309. The written notice of appeal and request for hearing shall specifically describe the facts to be contested and determined at the hearing. The hearing shall be a contested case conducted pursuant to the procedures outlined at 657 IAC chapter 35.

**2. IF A WRITTEN NOTICE OF APPEAL AND REQUEST FOR HEARING IS NOT TIMELY FILED, THIS NOTICE OF INTENT TO DENY REGISTRATION WILL BECOME FINAL, AND THE IOWA PHARMACY TECHNICIAN TRAINEE REGISTRATION APPLICATION SUBMITTED BY VIRGINIA ROCK WILL BE DENIED.**

Date issued: \_\_September 2, 2017\_\_



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Andrew Funk  
Executive Director  
Iowa Board of Pharmacy