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

11 In the Matter of the Accusation Against:  
12 **CANDICE ELAINE BARTON**  
13 4234 Hatfield Pl.  
14 Los Angeles, CA 90032  
15 Pharmacy Technician Registration No. TCH  
96084  
16 Respondent.

Case No. 4513

**A C C U S A T I O N**

18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the California State Board of Pharmacy.
- 22 2. On or about May 26, 2010, the Board of Pharmacy issued Pharmacy Technician  
23 Registration No. TCH 96084 to Candice Elaine Barton (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on January 31, 2014, unless renewed.

26 ///  
27 ///  
28 ///

1 **JURISDICTION**

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

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b), provides that the expiration of a license shall not deprive  
6 the Board of jurisdiction to proceed with a disciplinary action during the period within which the  
7 license may be renewed, restored, reissued or reinstated.

8 5. Section 490 states, in pertinent part:

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

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

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

23 6. Section 4300 provides that every license issued by the Board is subject to discipline,  
24 including suspension or revocation.

25 7. Section 4301 of the Code states:

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

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

4 ....

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

22 ....

### 23 REGULATORY PROVISIONS

24 8. 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 **COST RECOVERY**

4 9. Section 125.3 provides that the Board may request the administrative law judge to  
5 direct a licensee found to have committed a violation or violations of the licensing act to pay a  
6 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

7 **FIRST CAUSE FOR DISCIPLINE**

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

9 10. Respondent is subject to disciplinary action under sections 4300, 4301,  
10 subdivision (l), and 490, in conjunction with California Code of Regulations, title 16, section  
11 1770, in that Respondent was convicted of a crime substantially related to the qualifications,  
12 functions, and duties of a pharmacy technician.

13 a. On or about February 23, 2012, after pleading no contest, Respondent was convicted  
14 of one felony count of violating Penal Code section 243(d) [battery on a person causing serious  
15 bodily injury] in the criminal proceeding entitled *The People of the State of California vs.*  
16 *Candice Elaine Barton* (Super. Ct. Los Angeles County, 2011, No. BA389824). The Court  
17 sentenced Respondent to 365 days in jail, payment of fines, placed her on three (3) years  
18 probation, and ordered her to stay away from victim HV.

19 b. The circumstances surrounding the conviction are that on or about  
20 September 20, 2011, Respondent was involved in a physical altercation involving the service of a  
21 child custody subpoena that resulted in bodily harm to victim HV. Respondent came behind  
22 victim HV and hit him in the back with an unknown object causing injury.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct / Moral Turpitude)**

25 11. Respondent is subject to disciplinary action under sections 4300 and 4301,  
26 subdivision (f) in that Respondent committed and an act of unprofessional conduct in that she  
27 engaged in Moral Turpitude. Complainant refers to, and by this reference incorporates, the  
28 allegations set forth above in paragraph 10, inclusive, as though set forth fully.

1 DISCIPLINARY CONSIDERATIONS

2 12. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges the following:

4 a. On or about July 2, 2008, after pleading nolo contendere, Respondent was convicted  
5 of one misdemeanor count of violating Penal Code section 487A [ grand theft], in the criminal  
6 proceedings entitled *The People of the State of California v. Candice Elaine Barton* (Super. Ct.  
7 Los Angeles County, 2008, No. 8CA07578). The Court placed Respondent on 18 months  
8 probation, and ordered Respondent to pay restitution and fines. The Court further ordered  
9 Respondent to enroll in and complete seven (7) days of the Cal Trans program.

10 b. The circumstances surrounding the conviction occurred on or about May 8, 2008,  
11 where Respondent was arrested for stealing property from her former employer. Respondent did  
12 not disclose the violation in her application.

13 PRAYER

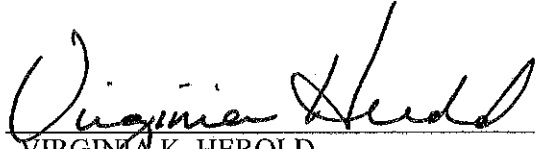
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board issue a decision:

16 1. Revoking or suspending Pharmacy Technician Registration No. TCH 96084, issued  
17 to Candice Elaine Barton;

18 2. Ordering Candice Elaine Barton to pay the Board the reasonable costs of the  
19 investigation and enforcement of this case, pursuant to section 125.3; and

20 3. Taking such other and further action as deemed necessary and proper.

21  
22 DATED: 4/19/13

  
23 VIRGINIA K. HEROLD  
24 Executive Officer  
25 California State Board of Pharmacy  
26 State of California  
27 Complainant

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