

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 KATHLEEN B.Y. LAM (STATE BAR NO. 95379)
Deputy Attorney General
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2091
Facsimile: (619) 645-2061
7 *Attorneys for Complainant*

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

12 In the Matter of the Statement of Issues
Against:

Case No. 3316

13 **RUBEN LORENZO LOPEZ**
36135 Castellane Drive
14 Murrieta CA 92562

STATEMENT OF ISSUES

15 Respondent.

16
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 2. On or about September 26, 2007, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a pharmacy technician from Ruben Lorenzo Lopez
23 (Respondent). On or about September 4, 2007, Ruben Lorenzo Lopez certified under penalty of
24 perjury to the truthfulness of all statements, answers, and representations in the application. The
25 Board denied the application on October 1, 2008.

26 ///

27 ///

28 ///

JURISDICTION

3. This Statement of Issues is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 4300 of the Code states in pertinent part:

....

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

- (1) Medical or psychiatric evaluation.
- (2) Continuing medical or psychiatric treatment.
- (3) Restriction of type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.
- (5) Abstention from the use of alcohol or drugs.
- (6) Random fluid testing for alcohol or drugs.
- (7) Compliance with laws and regulations governing the practice of pharmacy.

....

5. Section 475 of the Code states, in pertinent part:

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

...

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

....

6. 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 (3) Done any act which if done by a licentiate of the business or
2 profession in question, would be grounds for suspension or revocation of license.

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

6

7 FIRST CAUSE FOR DENIAL OF APPLICATION
8 (Commission of an Act, Which if Done by a Licentiate,
9 Would be Grounds for Revocation of License)

10 7. Respondent's application is subject to denial under sections 475(a)(4) and 480(a)(3),
11 in that on or about May 19, 2004, he committed acts, which if done by a licentiate, would be
12 grounds for revocation or suspension of a license in that in a criminal proceeding entitled *People*
13 *of the State of California v. Ruben Lorenzo Lopez* in Riverside County Superior Court Case
14 Number SWM025682, Respondent was convicted by his plea of guilty of Health & Safety Code
15 section 11377(a) and Health & Safety Code section 11364, misdemeanors. The circumstances are
16 as follows:

17 a. On or about February 16, 2004, Respondent was stopped while driving his
18 vehicle by a Murrieta Police Department officer who believed Respondent was under age.
19 Because Respondent exited the vehicle and approached the officer who was by his police cruiser
20 obtaining information about Respondent's driver's license, a pat down search was conducted.
21 The officer discovered a small plastic container containing what was later determined to be 2.4
22 grams of Diazepam, a narcotic. He was arrested for possession of a controlled substance. During
23 a search incident to the arrest, a glass pipe used to smoke controlled substances was recovered
24 from the vehicle's glove box.

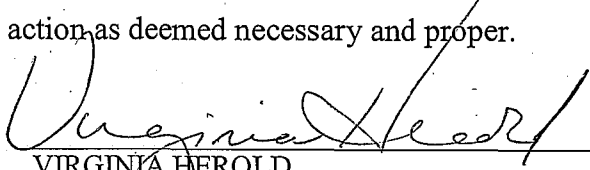
25 b. On or about May 19, 2004, judgment was deferred pursuant to Penal Code
26 section 1000 and Respondent was placed on diversion. Respondent successfully completed
27 diversion, and Counts 1 and 2 of the Complaint were dismissed on December 19, 2005.
28

PRAYER

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

1. Denying the application of Ruben Lorenzo Lopez for a Pharmacy Technician's license; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 7/20/09


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

Complainant

SD2009803855
80361141.doc