

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 WILBERT E. BENNETT  
Supervising Deputy Attorney General  
3 CLAUDIA H. PHILLIPS, State Bar No. 202645

Deputy Attorney General  
4 1515 Clay Street, 20<sup>th</sup> Floor  
P.O. Box 70550  
5 Oakland, CA 94612-0550  
Telephone: (510) 622-2221  
6 Facsimile: (510) 622-2270

7 Attorneys for Complainant

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

11 In the Matter of the Statement of Issues Against:

Case No. 3317

12 **LAVINA ARJAN PRIMLANI**  
13 35662 Beeching Lane  
Fremont, California 94536

**STATEMENT OF ISSUES**

14 Respondent.

15  
16  
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Executive Officer of the Board of Pharmacy, Department of  
21 Consumer Affairs.
- 22 2. On or about August 31, 2007, the Board of Pharmacy, Department of  
23 Consumer Affairs received an application for registration as a Pharmacy Technician from Lavina  
24 Arjan Primlani (Respondent). On or about August 3, 2007, Respondent certified under penalty  
25 of perjury to the truthfulness of all statements, answers, and representations in the application.  
26 The Board denied the application on May 5, 2008.

27 **JURISDICTION**

- 28 3. This Statement of Issues is brought before the Board of Pharmacy (Board),

1 Department of Consumer Affairs, under the authority of the following laws. All section  
2 references are to the Business and Professions Code (Code) unless otherwise indicated.

3 **STATUTORY PROVISIONS**

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

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

7 "(2) Conviction of a crime.

8 .....

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

11 5. Section 480 of the Code states, in pertinent part:

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

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

20 .....

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

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

26 6. Title 16, California Code of Regulations, section 1770, states:

27 "For the purpose of denial, suspension, or revocation of a personal or facility  
28 license . . . a crime or act shall be considered substantially related to the qualifications, functions

1 or duties of a licensee or registrant if to a substantial degree it evidences present or potential  
2 unfitness of a licensee or registrant to perform the functions authorized by his license or  
3 registration in a manner consistent with the public health, safety, or welfare."

4 7. Section 4301 of the Code states, in pertinent part:

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

9 "(h) The administering to oneself, of any controlled substance, or the use of any  
10 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
11 injurious to oneself, to a person holding a license under this chapter, or to any other person or to  
12 the public, or to the extent that the use impairs the ability of the person to conduct with safety to  
13 the public the practice authorized by the license.

14 . . . . .  
15 "(k) The conviction of more than one misdemeanor or any felony involving the  
16 use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
17 combination of those substances. . . ."

18 8. Section 493 of the Code states:

19 "Notwithstanding any other provision of law, in a proceeding conducted by a  
20 board within the department pursuant to law to deny an application for a license or to suspend or  
21 revoke a license or otherwise take disciplinary action against a person who holds a license, upon  
22 the ground that the applicant or the licensee has been convicted of a crime substantially related to  
23 the qualifications, functions, and duties of the licensee in question, the record of conviction of the  
24 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,  
25 and the board may inquire into the circumstances surrounding the commission of the crime in  
26 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
27 qualifications, functions, and duties of the licensee in question.

28 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and

1 'registration.'"

2 **FIRST CAUSE FOR DENIAL OF APPLICATION**

3 **(Substantially Related Criminal Convictions)**

4 9. Respondent's application is subject to denial under Code section 480(a)(1)  
5 in that she was convicted of crimes substantially related to the qualifications, functions, or duties  
6 of a Pharmacy Technician, as defined in Title 16, California Code of Regulations, section 1770,  
7 as follows:

8 a. On or about February 20, 2002, in *People v. Lavina Arjan Primlani*,  
9 Alameda County Superior Court Case Number 73308, Respondent was convicted by plea of no  
10 contest of violating Vehicle Code section 23103.5, Reckless Driving Involving the Consumption  
11 of an Alcoholic Beverage, a misdemeanor. Pursuant to said conviction, Respondent was  
12 sentenced to serve one day in the county jail and was placed on three years of probation under  
13 terms which included, but were not limited to, the completion of Driving Under the Influence  
14 School, Level II, and the payment of fines.

15 The factual circumstances of said conviction are that on or about June 16, 2001,  
16 Respondent was stopped by an Alameda Police Officer for speeding. When the officer contacted  
17 Respondent, he noted immediately that Respondent displayed objective signs of intoxication.  
18 Respondent denied drinking but failed to perform the Field Sobriety Tests as demonstrated and  
19 refused to submit to a chemical test to determine the alcoholic content of her blood, in violation  
20 of Vehicle Code section 23612.

21 b. On or about March 29, 2005, in *People v. Lavina Arjan Primlani*,  
22 Alameda Superior Court Case Number 111357, Respondent was convicted by a plea of no  
23 contest of violating Vehicle Code section 23152(a), Driving Under the Influence of an Alcoholic  
24 Beverage, a misdemeanor. Respondent also admitted her prior conviction for Reckless Driving  
25 on February 20, 2002. Pursuant to said conviction, Respondent was sentenced to serve 10 days  
26 in the county jail and was placed on five years of probation under terms which included, but were  
27 not limited to, an 18-month license restriction and the payment of fines.

28 //

1 The factual circumstances of said conviction are that on or about January 1, 2004, at  
2 approximately 12:08 a.m., Respondent was stopped by a Livermore Police Officer for erratic  
3 driving. When the officer contacted Respondent, he noted objective signs of intoxication.

4 Respondent refused to participate in the investigation interview, failed the Field Sobriety Tests,  
5 and refused to submit to a chemical test to determine the alcoholic content of her blood, in  
6 violation of Vehicle Code section 23612.

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

8 **(Unprofessional Conduct: Use of Alcoholic Beverages in a Dangerous Manner)**

9 10. Respondent's application is subject to denial under Code section 480(a)(3)  
10 in that she engaged in unprofessional conduct when she used alcoholic beverages to an extent or  
11 in a manner as to be dangerous to herself and to the public, as set forth in paragraph 9 above,  
12 which constitutes grounds for suspension or revocation of a license issued by the Board pursuant  
13 to Code section 4301(h).

14 **THIRD CAUSE FOR DENIAL OF APPLICATION**

15 **(Unprofessional Conduct: Conviction of More Than One Misdemeanor**

16 **Involving the Use of an Alcoholic Beverage)**

17 11. Respondent's application is subject to denial under Code section 480(a)(3)  
18 in that she engaged in unprofessional conduct when she was convicted of more than one  
19 misdemeanor involving the use, consumption, or self-administration of an alcoholic beverage, as  
20 set forth in paragraph 9 above, which constitutes grounds for suspension or revocation of a  
21 license issued by the Board pursuant to Code section 4301(k).

22 **PRAYER**

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

25 1. Denying the application of Lavina Arjan Primlani for licensure as a  
26 Pharmacy Technician; and

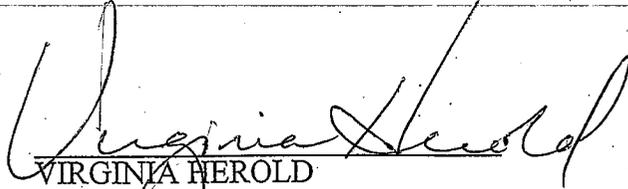
27 //

28 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

2. Taking such other and further action as deemed necessary and proper.

DATED: 8/20/09



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

SF2009403374

90109950.wpd