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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:

Case No. 3513

12 **LESLIE MARIE LAPERLE**
13 3480 Royal Road, #9
Concord CA 94519

STATEMENT OF ISSUES

14 Applicant for a Pharmacy Technician License

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 January 24, 2009, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician license from Leslie Marie LaPerle
23 (Respondent). On or about January 16, 2009, Leslie Marie LaPerle 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 August 17, 2009.

26 JURISDICTION

- 27 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 4300 of the Code states:

3 ...

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

9 "(1) Medical or psychiatric evaluation.

10 "(2) Continuing medical or psychiatric treatment.

11 "(3) Restriction of type or circumstances of practice.

12 "(4) Continuing participation in a board-approved rehabilitation program.

13 "(5) Abstention from the use of alcohol or drugs.

14 "(6) Random fluid testing for alcohol or drugs.

15 ..."

16 5. Section 4301 of the Code states:

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

20 ...

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

26 "(j) The violation of any of the statutes of this state, or any other state, or of the United
27 States regulating controlled substances and dangerous drugs.

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

18
19 6. Section 480 of the Code states:

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

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

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

3 "(B) 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 of the
5 business or profession for which application is made.

6 ..."

7 FACTUAL BACKGROUND

8 7. On or about September 27, 2005, Respondent possessed the controlled substance
9 Methamphetamine in violation of California Health and Safety Code Section 11377(a).

10 8. On or about October 5, 2006, in Contra Costa Superior Court Case No. 126216-1
11 Respondent was convicted on a plea of no contest to violating Health and Safety Code Section
12 11377(a). The circumstances are described in Paragraph 7 above.

13 9. On or about December 6, 2006, Respondent unlawfully used and was under the
14 influence of the controlled substance methamphetamine in violation of Health and Safety Code
15 section 11550.

16 10. On or about April 25, 2007, in Contra Costa Superior Court Case No. 129484-2
17 Respondent plead no contest and was found guilty of violating Health and Safety Code section
18 11550. Respondent was granted a Deferred Entry of Judgment and entered a drug diversion
19 program. Respondent successfully completed the diversion program and the criminal
20 proceedings were dismissed.

21 FIRST CAUSE FOR DENIAL OF APPLICATION

22 (Unprofessional Conduct - Conviction)

23 11. Respondent's application is subject to denial under sections 480, 4300, 4301(I) of the
24 code in that Respondent was convicted of a crime that is substantially related to the duties,
25 functions, and qualifications of a pharmacy technician. The circumstances are set forth in
26 paragraphs 7-8, above.

27 SECOND CAUSE FOR DENIAL OF APPLICATION

28 (Unprofessional Conduct – Dangerous/Injurious use of Drugs)

1 12. Respondent's application is subject to denial under sections 480(a)(3)(A), 4300 and
2 4301(h) of the code in that Respondent used drugs to the extent or in a manner that was
3 dangerous or injurious to herself. The circumstances are set forth in paragraphs 9-10, above.

4 THIRD CAUSE FOR DENIAL OF APPLICATION

5 (Unprofessional Conduct – Possession of Controlled Substances)

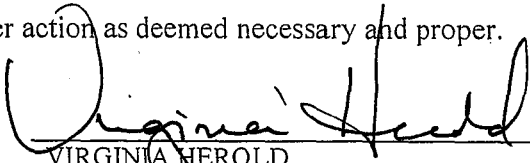
6 13. Respondent's application is subject to denial under sections 480(a)(3)(A), 4300 and
7 4301(j) of the code in that Respondent violated a statute of California concerning controlled
8 substances. The circumstances are set forth in paragraphs 7 and 9, above.

9 PRAYER

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

- 12 1. Denying the application of Leslie Marie LaPerle for a Pharmacy Technician License;
13 2. Taking such other and further action as deemed necessary and proper.

14 DATED: 3/18/10


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant