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8	DEEODE TITE
9	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMED A FEATIBE
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 3623
12	Against:
13	AILSA JEAN HUNTER P.O. Box 923 STATEMENT OF ISSUES
14	Grover Beach, CA 93483
15	Pharmacy Technician Applicant
16	Respondent.
17	reespondent.
18	Complainant alleges:
19	<u>PARTIES</u>
20	1. Virginia Herold ("Complainant") brings this Statement of Issues solely in her official
21	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22	2. On or about October 28, 2008, the Board of Pharmacy, Department of Consumer
23	Affairs (Board) received an application for registration as a Pharmacy Technician from Ailsa Jean
24	Hunter (Respondent). On or about October 20, 2008, Ailsa Jean Hunter certified under penalty of
25	perjury to the truthfulness of all statements, answers, and representations in the application. The
26	Board denied the application on November 10, 2009.
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STATEMENT OF ISSUES

JURISDICTION

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

STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 5. Section 480 of the Code states:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.
- "(3) Done an 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 475 of the Code states:
- "(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:
 - "(2) Conviction of a crime.

. .

"(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."

REGULATORY PROVISIONS

7. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Criminal Conviction)

- 8. Respondent's application is subject to denial under Code sections 475 and 480, subdivision (a)(1), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician applicant, as follows:
- a. On or about March 12, 2002, after pleading guilty, Respondent was convicted of one felony count of violating Penal Code section 245, subdivision (a)(1) [assault against a person], in the criminal proceeding entitled *The People of the State of California vs. Hunter* (Super. Ct. San Luis Obispo County, 2002, No. F000321664). The Court sentenced Respondent to 180 days in custody and placed her on supervised felony probation with certain terms and conditions. The circumstances surrounding the conviction are that on or about December 14, 2001, San Luis Obispo Sheriff Officers arrested Respondent for assaulting a person with a knife. Respondent's assault left the victim with a laceration to the lower back that was twelve to fourteen inches in length and one-half inch deep. The victim received stitches to close the laceration.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

9. Respondent's application is subject to denial under Code section 480, subdivision (a)(3) on the grounds of unprofessional conduct. The circumstances are that Respondent committed acts which constitute unprofessional conduct when she assaulted a person with a knife resulting in bodily injury. Complainant refers to, and by this reference incorporates the allegation set forth above in paragraph 9, subparagraph (a), inclusive, as though set forth fully.

PRAYER

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

- 1. Denying the application of Respondent for a Pharmacy Technician Applicant; and
- 2. Taking such other and further-action as deemed necessary and proper.

DATED: 10/29/10

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant