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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. 3726

12 **SEBASTION ALONZO**
1111 Beryl Avenue, Apt. A
13 Mentone, CA 92359
14 **Applicant for Pharmacy Technician**
Registration

STATEMENT OF ISSUES

15 Respondent.

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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 14, 2009, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a/an Applicant for Pharmacy Technician Registration from
23 Sebastion Alonzo (Respondent). On or about August 11, 2009, Sebastion Alonzo certified under
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on April 13, 2010.

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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.

STATUTORY PROVISIONS

4. 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.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

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

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

"(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate

1 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
2 Section 482.

3 "(c) A board may deny a license regulated by this code on the ground that the applicant
4 knowingly made a false statement of fact required to be revealed in the application for the
5 license."

6 5. Section 4301 states:

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

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

14

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

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.”

4 6. Section 4311, subdivision (c)(4), states:

5 "A conviction of any crime referred to in Section 4301, or for violation of Section 187, 261,
6 or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the
7 qualifications, functions, or duties of a licensee of the board."

8 REGULATORY PROVISIONS

9 7. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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

16 FIRST CAUSE FOR DENIAL OF APPLICATION

17 (Conviction of Substantially Related Crimes)

18 8. Respondent's application is subject to denial under section 480, subdivision (a)(1),
19 and 4301, subdivision (l), in that he has been convicted of substantially related crimes as follows:

20 a On or about June 13, 2008, after pleading guilty, Respondent was convicted of one
21 felony count of violating Penal Code section 290, subdivision (G)(2) [failure to register as a
22 felony sex offender] in the criminal proceeding entitled *The People of the State of California v.*
23 *Sebastian Alonzo* (Super. Ct. San Bernardino County, 2006, No. FSB054804). The Court
24 sentenced Respondent to 40 days in San Bernardino County jail and placed him on 3 years formal
25 probation.

26 b. On or about March 7, 2002, after pleading guilty, Respondent was convicted of one
27 misdemeanor count of violating Penal Code section 71 [threatening a public officer] in the
28 criminal proceeding entitled *The People of the State of California v. Sebastian Alonzo* (Super. Ct.,

1 San Bernardino County, 2002, No. MSB060419). The Court sentenced Respondent to 30 days in
2 San Bernardino County jail and placed him on 3 years probation.

3 c. On or about December 15, 1989, after pleading guilty, Respondent was convicted of
4 one felony count of violating Penal Code section 496 [receiving known stolen property] in the
5 criminal proceeding entitled *The People of the State of California v. Sebastian Alonzo* (Super. Ct.
6 San Bernardino County, 1989, No. SCR50892). The Court sentenced Respondent to 365 days in
7 San Bernardino County jail and placed him on 5 years formal probation with terms and
8 conditions. On or about August 19, 1992, Respondent violated his probation and the Court
9 sentenced him to 8 months in state prison.

10 d. On or about December 15, 1989, after pleading guilty, Respondent was convicted of
11 one felony count of violating Penal Code section 288, subdivision (a) [lewd or lascivious acts
12 with a child under 14] in the criminal proceeding entitled *The People of the State of California v.*
13 *Sebastian Alonzo* (Super. Ct. San Bernardino County, 1989, No. SCR50945). The Court
14 sentenced Respondent to 365 days in San Bernardino County jail and placed him on 5 years
15 formal probation with terms and conditions. On or about August 19, 1992, Respondent violated
16 his probation and the Court sentenced him to 6 years in state prison.

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 **(Acts Which if Done by a Licentiate Would Constitute Grounds for Discipline)**

19 8. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A),
20 in conjunction with section 4301, subdivision (f), and section 4301, subdivision (l), in that he has
21 committed acts involving moral turpitude and has been convicted of substantially related crimes.
22 Complainant refers to and incorporates all the allegations contained in paragraph 7,
23 subparagraphs a-d, as though set forth fully.

24 **PRAYER**

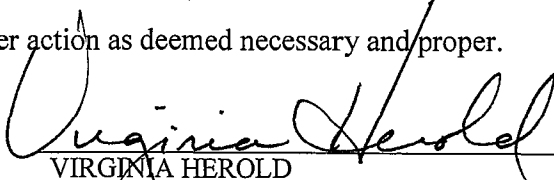
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Pharmacy issue a decision:

27 1. Denying the application of Sebastian Alonzo for a Applicant for Pharmacy
28 Technician Registration; and

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

DATED: 12/2/10



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

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