1	KAMALA D. HARRIS Attorney General of California FRANK H. PACOE
3	Supervising Deputy Attorney General BRETT A. KINGSBURY
4	Deputy Attorney General State Bar No. 243744
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004
6	Telephone: (415) 703-1192 Facsimile: (415) 703-5480
7	Attorneys for Complainant
8	BEFORE THE BOARD OF PHARMACY
9 <sup>.</sup>	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Statement of Issues Case No. 3996 Against:
12	KURTIS LAYNE MCKINZEY   15 Western Shore Ln., #4   STATEMENT OF ISSUES
13	San Francisco, CA 94115
14	Respondent.
15	
16	Complainant alleges:
17	PARTIES
18	1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20	2. On or about April 15, 2010, the Board of Pharmacy, Department of Consumer Affairs
21	received an application for Pharmacy Technician Registration from Kurtis Layne McKinzey
22	(Respondent). On or about April 12, 2010, Respondent certified under penalty of perjury to the
23	truthfulness of all statements, answers, and representations in the application. The Board denied
24	the application on October 20, 2010.
25	JURISDICTION
26	3. This Statement of Issues is brought before the Board of Pharmacy (Board),
27	Department of Consumer Affairs, under the authority of the following laws. All section
28	references are to the Business and Professions Code unless otherwise indicated.
	1
	STATEMENT OF ISSUES

2

4. Section 118(a) of the Code states: 1 "(a) The withdrawal of an application for a license after it has been filed with a board in the 2 department shall not, unless the board has consented in writing to such withdrawal, deprive the 3 board of its authority to institute or continue a proceeding against the applicant for the denial of 4 the license upon any ground provided by law or to enter an order denying the license upon any 5 such ground." 6 STATUTORY AND REGULATORY PROVISIONS 7 Section 480 of the Code states: 5. 8 "(a) A board may deny a license regulated by this code on the grounds that the applicant has 9 one of the following: 10 ".... 11 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially 12 benefit himself or herself or another, or substantially injure another. 13 "(3) (A) Done any act that if done by a licentiate of the business or profession in question, 14 would be grounds for suspension or revocation of license. 15 . . . . " 16 Section 4300 of the Code states: 6. 17 " 18 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The 19 board may, in its sole discretion, issue a probationary license to any applicant for a license who is 20 guilty of unprofessional conduct and who has met all other requirements for licensure. The board 21 may issue the license subject to any terms or conditions not contrary to public policy .... 22 ".... 23 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5 24 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board 25 26 shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of 27 Civil Procedure." 28 2

STATEMENT OF ISSUES

1	7. Section 4301 of the Code states:
2	"The board shall take action against any holder of a license who is guilty of unprofessional
3	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
4	Unprofessional conduct shall include, but is not limited to, any of the following:
5	n • • • •
6	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
7	corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
8	whether the act is a felony or misdemeanor or not.
9	"(g) Knowingly making or signing any certificate or other document that falsely represents
10	the existence or nonexistence of a state of facts.
11	"
12	"(j) The violation of any of the statutes of this state, of any other state, or of the United
13	States regulating controlled substances or dangerous drugs.
14	"····
15	"(n) The revocation, suspension, or other discipline by another state of a license to practice
16	pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.
17	
18	8. Section 4324(a) of the Code states:
19	"Every person who signs the name of another, or of a fictitious person, or falsely makes,
20	alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
21	drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the
22	state prison, or by imprisonment in the county jail for not more than one year."
23	DRUGS
24	9. Norco® is a brand name drug consisting of hydrocodone 10mg and acetaminophen
25	(APAP) 325mg. It is a dangerous drug per B&P 4022 and categorized as Schedule III narcotic
26	controlled substance per H&S 11056(e)(4).
27	
28	
	3
	STATEMENT OF ISSUES

1	10. Hydrocodone is a Schedule II controlled substance pursuant to Health & Safety Code
2	section 11055, subdivision (b)(1)(I), and a dangerous drug within the meaning of Code section
3	4022.
4	FIRST CAUSE FOR DENIAL OF APPLICATION
5	(Act Involving Dishonesty)
6	11. Respondent's application is subject to denial under §§ 480(a), 4300, and 4301(f) of
7	the Code in that Respondent committed an act involving dishonesty, fraud, or deceit, with an
8	intent to benefit himself or harm another. Specifically, in 1998, Respondent illegally obtained
9	and attempted to use a physician's DEA number, writing himself a prescription for Norco®,
10	which is a medication containing Hydrocodone.
11	SECOND CAUSE FOR DENIAL OF APPLICATION
12	(Knowingly Signing a False Document)
13	12. Respondent's application is subject to denial under $\S$ 480(a), 4300, and 4301(g) of
14	the Code in that Respondent knowingly signed a false document. The details are described above
15	in the First Cause for Denial of Application.
16	THIRD CAUSE FOR DENIAL OF APPLICATION
17	(Prescription Forgery)
18	13. Respondent's application is subject to denial under $\S$ 4301(j) and 4324(a) of the
19	Code in that Respondent attempted to pass as genuine a false prescription for drugs. The details
20	are described above in the First Cause for Denial of Application.
21	FOURTH CAUSE FOR DENIAL OF APPLICATION
22	(Out-of-State Discipline)
23	14. Respondent's application is subject to denial under §§ 480(a), 4300, and 4301(n) of
24	the Code in that Respondent's certificate to practice as a pharmacy technician in the State of
25	Washington was disciplined on April 5, 2000. Specifically, based on the conduct described above
26	in the First Cause for Denial of Application, the State of Washington revoked Respondent's
27	certificate.
28	111
	4
	STATEMENT OF ISSUES

1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board of Pharmacy issue a decision:
4	1. Denying the application of Kurtis Layne McKinzey for a Pharmacy Technician
5	Registration;
6	2. Taking such other and further action as deemed necessary and proper.
7	The The
8	DATED:
9	Executive Officer Board of Pharmacy
10	Department of Consumer Affairs State of California
11	Complainant
12	SF2011200929
13	20449356.doc
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
. 24	
25	
26	
27	· .
28	