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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against: **TERESA HEIMBRAND BERNHARDT** **115 11th Street, #6** **Manhattan Beach, CA 90266** **Pharmacy Technician Registration Number Applicant** Respondent.	Case No. 4001 **STATEMENT OF ISSUES**

Complainant alleges:

PARTIES

1. Virginia Herold ("Complainant") brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about March 19, 2010, the Board of Pharmacy, Department of Consumer Affairs received an application for a Pharmacy Technician Registration Number from Teresa Heimbrand Bernhardt ("Respondent"). On or about January 19, 2010, Teresa Heimbrand Bernhardt certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on November 22, 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 provides, in pertinent part:

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

REGULATORY PROVISIONS

5. California Code of Regulations, title 16, section 1770, provides:

> "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."

6. California Code of Regulations, title 16, section 1769, provides:

"(a) When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant..."

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction for a Substantially Related Crime)

7. Respondent's application is subject to denial under section 480, subdivision (a)(1) of the Code in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances surrounding the conviction are as follows:

8. On or about January 12, 2004, in the criminal matter entitled *People of the State of California v. Teresa Heimrand Bernhardt*, Los Angeles County Superior Court case number GA 054306, Respondent was convicted of violating California Health and Safety Code section 11550, being under the influence of a controlled substance, a misdemeanor. Respondent was placed on probation for a period of three years, was ordered to pay court fines, and was sentenced to ninety days in the county jail. Respondent was further ordered to attend a three month outpatient drug

treatment program. On or about December 16, 2004, the matter was dismissed pursuant to Penal Code section 1203.4.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Conviction for a Substantially Related Crime)

9. Respondent's application is subject to denial under section 480, subdivision (a)(1) of the Code in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances surrounding the conviction are as follows:

10. On or about May 8, 2002, in the criminal matter entitled *People of the State of California v. Teresa Heimrand Bernhardt*, Los Angeles County Superior Court case number GA 048307, Respondent entered a plea of guilty to violating California Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, felony. Respondent was granted an eighteen month deferred entry of judgment and ordered to participate in a drug treatment program. On July 28, 2003, after Respondent violated the terms of the deferred entry of judgment agreement, judgment entered, and Respondent was sentenced to one year of formal probation pursuant to Proposition 36. On November 6, 2011, after Respondent failed to comply with Proposition 36, Respondent was terminated from the program, and placed on a standard grant of probation. Respondent's probation was extended for an additional eighteen months, and she was ordered to participate in drug court. On or about December 7, 2004, the matter was dismissed pursuant to PC 1203.4.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Conviction for a Substantially Related Crime)

11. Respondent's application is subject to denial under section 480, subdivision (a)(1) of the Code in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances surrounding the conviction are as follows:

12. On or about July 28, 2003, in the criminal matter entitled *People of the State of California v. Teresa Heimrand Bernhardt*, Los Angeles County Superior Court case number GA

053976, Respondent was convicted of violating California Health and Safety Code section 11377, subdivision (a), possession of a controlled substance, felony. Respondent was sentenced to probation for a period of three years pursuant to Proposition 36. On December 7, 2004, the matter was dismissed pursuant to Penal Code section 1203.4.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Conviction for a Substantially Related Crime)

13. Respondent's application is subject to denial under section 480, subdivision (a)(1) of the Code in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances surrounding the conviction are as follows:

14. On or about February 7, 2002, in the criminal matter entitled *People of the State of California v. Teresa Heimrand Bernhardt*, Los Angeles County Superior Court case number CN140111, Respondent was convicted of violating California Vehicle Code section 23103, reckless driving, a misdemeanor.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Conviction for a Substantially Related Crime)

15. Respondent's application is subject to denial under section 480, subdivision (a)(1) of the Code in that she was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances surrounding the conviction are as follows:

16. On or about February 23, 1996, in the criminal matter entitled *People of the State of California v. Teresa Heimrand Bernhardt*, Los Angeles County Superior Court case number CN037922, Respondent was convicted of violating California Vehicle Code section 23152, subdivision (a), driving under the influence, a misdemeanor. Respondent was sentenced to probation for a period of three years.

PRAYER

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

1. Denying the application of Teresa Heimbrand Bernhardt for a Pharmacy Technician Registration Number;

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

DATED: 6/2/11

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

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