

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
4 State Bar No. 246134
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2442
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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. 4001

12 **TERESA HEIMBRAND BERNHARDT**
13 **115 11th Street, #6**
Manhattan Beach, CA 90266
14 **Pharmacy Technician Registration Number**
Applicant

STATEMENT OF ISSUES

15 Respondent.

16 Complainant alleges:
17

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

26 ///

27 ///

28 ///

1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board of Pharmacy ("Board"),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 of the Code provides, in pertinent part:

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

9 (1) Been convicted of a crime. A conviction within the
10 meaning of this section means a plea or verdict of guilty or a
11 conviction following a plea of nolo contendere. Any action that a
12 board is permitted to take following the establishment of a
13 conviction may be taken when the time for appeal has elapsed, or
14 the judgment of conviction has been affirmed on appeal, or when an
15 order granting probation is made suspending the imposition of
16 sentence, irrespective of a subsequent order under the provisions of
17 Section 1203.4 of the Penal Code.

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

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

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

28 (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..."

29 **REGULATORY PROVISIONS**

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

31 "For the purpose of denial, suspension, or revocation of a personal
32 or facility license pursuant to Division 1.5 (commencing with
33 Section 475) of the Business and Professions Code, a crime or act

1 shall be considered substantially related to the qualifications,
2 functions or duties of a licensee or registrant if to a substantial
3 degree it evidences present or potential unfitness of a licensee or
4 registrant to perform the functions authorized by his license or
5 registration in a manner consistent with the public health, safety, or
6 welfare."

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

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

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

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

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

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

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

24 **FIRST CAUSE FOR DENIAL OF APPLICATION**

25 **(Conviction for a Substantially Related Crime)**

26 7. Respondent's application is subject to denial under section 480, subdivision (a)(1)
27 of the Code in that she was convicted of a crime that is substantially related to the qualifications,
28 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

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

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Conviction for a Substantially Related Crime)**

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

9 10. On or about May 8, 2002, in the criminal matter entitled *People of the State of*
10 *California v. Teresa Heimrand Bernhardt*, Los Angeles County Superior Court case number GA
11 048307, Respondent entered a plea of guilty to violating California Health and Safety Code
12 section 11377, subdivision (a), possession of a controlled substance, felony. Respondent was
13 granted an eighteen month deferred entry of judgment and ordered to participate in a drug
14 treatment program. On July 28, 2003, after Respondent violated the terms of the deferred entry of
15 judgment agreement, judgment entered, and Respondent was sentenced to one year of formal
16 probation pursuant to Proposition 36. On November 6, 2011, after Respondent failed to comply
17 with Proposition 36, Respondent was terminated from the program, and placed on a standard
18 grant of probation. Respondent's probation was extended for an additional eighteen months, and
19 she was ordered to participate in drug court. On or about December 7, 2004, the matter was
20 dismissed pursuant to PC 1203.4.

21 **THIRD CAUSE FOR DENIAL OF APPLICATION**

22 **(Conviction for a Substantially Related Crime)**

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

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

1 053976, Respondent was convicted of violating California Health and Safety Code section 11377,
2 subdivision (a), possession of a controlled substance, felony. Respondent was sentenced to
3 probation for a period of three years pursuant to Proposition 36. On December 7, 2004, the matter
4 was dismissed pursuant to Penal Code section 1203.4.

5 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

6 **(Conviction for a Substantially Related Crime)**

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

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

15 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Conviction for a Substantially Related Crime)**

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

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

26 **PRAYER**

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

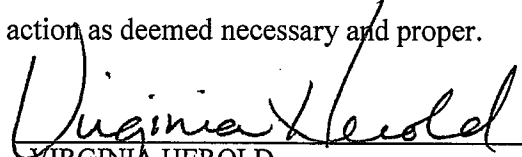
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

LA2011500917
50876926.doc