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8 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues
11 Against:

Case No. 4046

12 **LAUREN JANE TALLEY**

STATEMENT OF ISSUES

13 3205 Los Feliz Blvd. #5-205
14 Los Angeles, CA 90039

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 July 30, 2010, the Board of Pharmacy ("Board") received an application
21 for Registration as a Pharmacy Technician from Lauren Jane Talley ("Respondent"). On or about
22 July 26, 2010, Respondent certified under penalty of perjury to the truthfulness of all statements,
23 answers, and representations in the application. The Board denied the application on or about
24 January 10, 2011.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code ("Code") unless
28 otherwise indicated.

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4. Section 480 states, 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.”

5. Section 490 states, in pertinent part:

“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) 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.”

6. Section 4300 provides in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.”

7. Section 4301 states, in pertinent part:

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

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

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...

(p) Actions or conduct that would have warranted denial of a license.”

REGULATORY PROVISIONS

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

“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 her license or registration in a manner consistent with the public health, safety, or welfare.”

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Substantially Related Crime)

9. Respondent's application is subject to denial under section 480, subdivision (a)(1), in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime.

1 10. On or about April 29, 2010, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Penal Code section 148.9 [falsely represented or
3 identified herself to a peace officer] in the criminal proceeding entitled *The People of the State of*
4 *California v. Lauren Jane Talley* (Super. Ct. San Bernardino County, 2010, No. FCH08362). The
5 Court sentenced Respondent to serve 56 days in San Bernardino County jail, ordered
6 pronouncement of judgment withheld, and conditional and revocable release granted for a period
7 of 36 months, with terms and conditions.

8 11. The circumstances surrounding the conviction are, as follows:

9 a. On or about October 25, 2006, just prior to a shooting where Victim was
10 wounded, Respondent found her estranged boyfriend, V.C.D., parked in front of her apartment.
11 Respondent approached the car and noticed that he had a handgun. Respondent was informed
12 that he was waiting for T.M., Respondent's ex-boyfriend to arrive home for a confrontation.

13 b. Respondent did not make any attempt to notify the authorities of the imminent
14 altercation.

15 c. Respondent returned to her apartment. Moments later, Respondent heard two
16 gunshots. Respondent assumed that V.C.D. had confronted T.M. Respondent walked to the front
17 of the complex and immediately noticed that the victim was not T.M. but was driving a vehicle
18 that was identical to the one owned by T.M.

19 d. Respondent then left the complex and met V.C.D. for dinner where he made
20 general statements about the incident.

21 e. During her initial interview with officers, Respondent provided false
22 information to officers in an attempt to hinder the criminal investigation and prevent the
23 identification of V.C.D.

24 **SECOND CAUSE FOR DENIAL OF APPLICATION**

25 **(Acts Involving Dishonesty, Fraud, or Deceit)**

26 12. Respondent's application is subject to denial under section 480, subdivision (a)(2), in
27 that on or about October 25, 2006, Respondent committed acts involving dishonesty, fraud, or
28 deceit with the intent to substantially benefit herself, or substantially injure another. Complainant

1 refers to, and by this reference incorporates, the allegations set forth above in paragraph 9,
2 paragraph 10 and paragraph 11, subdivisions (a) through (e), as though set forth fully.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Acts Warranting Denial of Licensure)**

5 13. Respondent's application is subject to denial under sections 4301, subdivision (p) and
6 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a
7 licentiate of the business and profession in question, would be grounds for suspension or
8 revocation of her license, as follows:

9 a. Respondent was convicted of a crime substantially related to the qualifications,
10 functions, or duties of a pharmacy technician which to a substantial degree evidence her present
11 or potential unfitness to perform the functions authorized by her license in a manner consistent
12 with the public health, safety, or welfare, in violation of sections 4301, subdivision (l) and 490 of
13 the Code, in conjunction with California Code of Regulations, title 16, section 1770.

14 Complainant refers to, and by this reference incorporates, the allegations set forth above in
15 paragraph 9, paragraph 10 and paragraph 11, subdivisions (a) through (e), as though set forth
16 fully.

17 b. On or about October 25, 2006, Respondent committed acts involving dishonesty,
18 fraud, or deceit, or deceit in violation of section 4301, subdivision (f) of the Code. Complainant
19 refers to, and by this reference incorporates, the allegations set forth above in paragraph 9,
20 paragraph 10 and paragraph 11, subdivisions (a) through (e), as though set forth fully.

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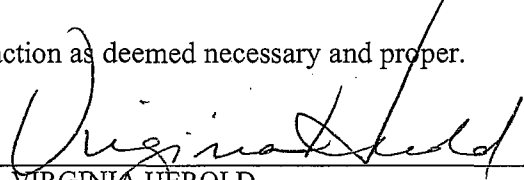
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PRAYER

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 Registration as a Pharmacy Technician;
- and
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/23/12



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

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