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

11 In the Matter of the Statement of Issues
Against:

Case No. 4047

12 **CHRISTOPHER ROBIN CLAUSI**
13 **721 S. Magnolia Avenue**
14 **Anaheim, CA 92804**

STATEMENT OF ISSUES

15 Respondent.

16
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 June 14, 2010, the Board of Pharmacy, Department of Consumer Affairs
22 received an application for a Pharmacy Technician Registration from Christopher Robin Clausi
23 (Respondent). On or about June 8, 2010, Christopher Robin Clausi certified under penalty of
24 perjury to the truthfulness of all statements, answers, and representations in the application. The
25 Board denied the application on March 1, 2011.

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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 4. Section 4300 of the Code states:

6 ...

7 (c) The board may refuse a license to any applicant guilty of
8 unprofessional conduct.

9 ...

10 **STATUTORY PROVISIONS**

11 5. Section 475 of the Code states:

12 (a) Notwithstanding any other provisions of this code, the provisions
13 of this division shall govern the denial of licenses on the grounds of:

14 ...

15 (2) Conviction of a crime.

16 ...

17 (4) Commission of any act which, if done by a licentiate of the
18 business or profession in question, would be grounds for suspension or
19 revocation of license.

20 (b) Notwithstanding any other provisions of this code, the provisions
21 of this division shall govern the suspension and revocation of licenses on
22 grounds specified in paragraphs (1) and (2) of subdivision (a) .

23 ...

24 6. Section 480 of the Code states:

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

27 (1) Been convicted of a crime. A conviction within the meaning of this
28 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.

...

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

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

5 ...

6 7. Section 493 of the Code states:

7 Notwithstanding any other provision of law, in a proceeding conducted
8 by a board within the department pursuant to law to deny an application for a
license or to suspend or revoke a license or otherwise take disciplinary
9 action against a person who holds a license, upon the ground that the
applicant or the licensee has been convicted of a crime substantially related
10 to the qualifications, functions, and duties of the licensee in question, the
record of conviction of the crime shall be conclusive evidence of the fact
11 that the conviction occurred, but only of that fact, and the board may inquire
into the circumstances surrounding the commission of the crime in order to
12 fix the degree of discipline or to determine if the conviction is substantially
related to the qualifications, functions, and duties of the licensee in question.

13 As used in this section, 'license' includes 'certificate,' 'permit,'
14 'authority,' and 'registration.'

15 8. Section 4301 of the Code states:

16 "The board shall take action against any holder of a license who is guilty of unprofessional
17 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

18 Unprofessional conduct shall include, but is not limited to, any of the following:

19 ...

20 (h) The administering to oneself, of any controlled substance, or the
21 use of any dangerous drug or of alcoholic beverages to the extent or in a
manner as to be dangerous or injurious to oneself, to a person holding a
22 license under this chapter, or to any other person or to the public, or to the
extent that the use impairs the ability of the person to conduct with safety to
23 the public the practice authorized by the license.

23 ...

24 (l) The conviction of a crime substantially related to the qualifications,
25 functions, and duties of a licensee under this chapter. The record of
conviction of a violation of Chapter 13 (commencing with Section 801) of
26 Title 21 of the United States Code regulating controlled substances or of a
violation of the statutes of this state regulating controlled substances or
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In
all other cases, the record of conviction shall be conclusive evidence only of
28 the fact that the conviction occurred. The board may inquire into the
circumstances surrounding the commission of the crime, in order to fix the

1 degree of discipline or, in the case of a conviction not involving controlled
2 substances or dangerous drugs, to determine if the conviction is of an
3 offense substantially related to the qualifications, functions, and duties of a
4 licensee under this chapter. A plea or verdict of guilty or a conviction
5 following a plea of nolo contendere is deemed to be a conviction within the
6 meaning of this provision. The board may take action when the time for
7 appeal has elapsed, or the judgment of conviction has been affirmed on
8 appeal or when an order granting probation is made suspending the

9 imposition of sentence, irrespective of a subsequent order under Section
10 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
11 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty,
12 or dismissing the accusation, information, or indictment.

13 REGULATORY PROVISIONS

14 9. California Code of Regulations, title 16, section 1769, states:

15 (a) When considering the denial of a facility or personal license under
16 Section 480 of the Business and professions code, the board, in evaluating
17 the rehabilitation of the applicant and his present eligibility for licensing or
18 registration, will consider the following criteria:

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

21 (2) Evidence of any act(s) committed subsequent to the act(s) or
22 crime(s) under consideration as grounds for denial under Section 480 of the
23 Business and professions code.

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

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

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

(b) When considering the suspension or revocation of a facility or a
personal license on the ground that the licensee or the registrant has been
convicted of a crime, the board, in evaluating the rehabilitation of such
person and his present eligibility for a license will consider the following
criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or
offense(s).

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

3 (5) Evidence, if any, of rehabilitation submitted by the licensee.

4 10. California Code of Regulations, title 16, section 1770, states:

5 For the purpose of denial, suspension, or revocation of a personal or
6 facility license pursuant to Division 1.5 (commencing with Section 475) of
7 the Business and Professions Code, a crime or act shall be considered
8 substantially related to the qualifications, functions or duties of a licensee or
9 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.

10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(March 19, 2009 Conviction for Possession of a Hypodermic Needle on January 25, 2008)**

12 11. Respondent's application is subject to denial under Code section 480 subdivisions
13 (a)(1) and (a)(3)(A), and section 4301 subdivisions (l) in that he was convicted of a crime that is
14 substantially related to the qualifications, duties, and functions of a Pharmacy Technician. The
15 circumstances are as follows:

16 a. On or about March 26, 2008, in a criminal proceeding entitled *People of the*
17 *State of California v. Christopher Robin Clausi*, in Orange County Superior Court, Case Number
18 08CM03062, Respondent entered a plea of guilty of violating Business and Professions Code
19 section 4140, Possession of a Hypodermic Needle, a misdemeanor. The court ordered a deferred
20 entry of judgment and ordered Respondent to complete an 18 month drug diversion program.
21 Upon Respondent's successful completion of this program the charges against Respondent were
22 to be dismissed. Respondent did not complete the diversion program and on March 19, 2009,
23 Respondent was convicted. Respondent was also initially charged with violation of Health and
24 Safety Code section 11357 subdivision (b), possession of more than 28.5 grams of marijuana,
25 however those charges were dismissed as part of a plea agreement.

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1 Highway Patrol for failing to maintain his vehicle in a single lane. Upon contacting the
2 Respondent, the officer noticed a strong smell of marijuana emanating from Respondent's vehicle
3 and his person as well as the odor of alcohol on Respondent's breath. Respondent's eyes were
4 red, bloodshot and watery. Respondent admitted to having one alcoholic beverage prior to
5 driving but denied any marijuana use. Respondent was asked to complete a series of field
6 sobriety tests, which he failed. Upon failure of the field sobriety tests, Respondent was arrested
7 for reckless driving and suspicion of driving under the influence

8 **THIRD CAUSE FOR DENIAL OF APPLICATION**

9 **(Unprofessional Conduct - Dangerous Use of Alcohol and drugs)**

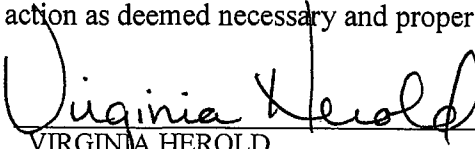
10 13. Respondent's application is subject to denial under sections 480, subdivision
11 (a)(3)(A), and section 4301 (h) of the Code in that on or about October 23, 2008, Respondent
12 used alcoholic beverages to an extent or in a manner dangerous or injurious to himself and the
13 public when he was arrested for driving recklessly after consuming alcohol and/or drugs as
14 outlined in paragraph 12, above.

15 **PRAYER**

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

- 18 1. Denying the application of Christopher Robin Clausi for a Pharmacy Technician
19 Registration;
- 20 2. Taking such other and further action as deemed necessary and proper.

21 DATED: 9/23/11

22 
23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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