

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
Deputy Attorney General
4 State Bar No. 131058
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-5524
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

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

Case No. 4098

13 **Brandon Thoreson**
14 **2844 NW McDermott Place**
Bend, Oregon 97701

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 December 3, 2010, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacist from Brandon Philip Thoreson (Respondent).

23 On or about November 20, 2010, Brandon Philip Thoreson certified under penalty of perjury to
24 the truthfulness of all statements, answers, and representations in the application. The Board
25 denied the application on April 4, 2011.

26 JURISDICTION

27 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 4300 of the Code states in pertinent part:

3 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct.
4 The board may, in its sole discretion, issue a probationary license to any applicant for
5 a license who is guilty of unprofessional conduct and who has met all other
6 requirements for licensure. The board may issue the license subject to any terms or
7 conditions not contrary to public policy, including, but not limited to, the following:

8 "(1) Medical or psychiatric evaluation.

9 "(2) Continuing medical or psychiatric treatment.

10 "(3) Restriction of type or circumstances of practice.

11 "(4) Continuing participation in a board-approved rehabilitation program.

12 "(5) Abstention from the use of alcohol or drugs.

13 "(6) Random fluid testing for alcohol or drugs.

14 "(7) Compliance with laws and regulations governing the practice of pharmacy.

15 5. Section 4301 of the Code states in pertinent part:

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

20 (k) The conviction of more than one misdemeanor or any felony
21 involving the use, consumption, or self-administration of any dangerous drug or
22 alcoholic beverage, or any combination of those substances.

23 (l) The conviction of a crime substantially related to the qualifications,
24 functions, and duties of a licensee under this chapter. The record of conviction of a
25 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
26 States Code regulating controlled substances or of a violation of the statutes of this
27 state regulating controlled substances or dangerous drugs shall be conclusive
28 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

1 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
2 dismissing the accusation, information, or indictment.

3 (n) The revocation, suspension, or other discipline by another state of a
4 license to practice pharmacy, operate a pharmacy, or do any other act for which a
5 license is required by this chapter.

6 6. Section 480 of the Code states:

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

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

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

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

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

23 (b) Notwithstanding any other provision of this code, no person shall be denied a
24 license solely on the basis that he or she has been convicted of a felony if he or she
25 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
26 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
27 convicted of a misdemeanor if he or she has met all applicable requirements of the
28 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.

(c) A board may deny a license regulated by this code on the ground that the
applicant knowingly made a false statement of fact required to be revealed in the
application for the license.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

7. Respondent's application is subject to denial under section 480 (a)(3) in conjunction
with 4301 (n) in that respondent held a pharmacist intern license and a pharmacist license which
was disciplined by the State of Oregon. The circumstances follow:

1 a. On or about January 8, 2007, the State of Oregon in *In the Matter of the*
2 *Technician License of Brandon Thoreson*; Case No. 2006-0513, respondent's technician license
3 was suspended and he was required to be evaluated through the Pharmacy Recovery Network
4 (PRN).

5 b. On or about March 12, 2007, the State of Oregon in *In the Matter of the Technician*
6 *License of Brandon Thoreson*; Case No. 2006-0513, ended the suspension of his technician
7 license and imposed a five year probation with terms and conditions.

8 c. On January 4, 2010, the State of Oregon in *In the Matter of the Intern License of*
9 *Brandon Thoreson*; Case No. 2009-0569, suspended his license for a period of one year.

10 d. On June 17, 2010, the State of Oregon *In the Matter of the Pharmacist License of*
11 *Brandon Thoreson*; Case No. 2010-0299, imposed a five year probation with terms and
12 conditions which included among other things, entering a state run program for dependency,
13 random fluid testing, abstain from the use of alcohol and psychoactive drugs unless prescribed.

14 SECOND CAUSE FOR DENIAL OF APPLICATION

15 (Conviction of Crimes)

16 8. Respondent's application is subject to denial under section 480 (a)(1) in conjunction
17 with 4301 (k) and (l) in that respondent was convicted of crimes substantially related to the
18 practice of a pharmacist:

19 a. On or about November 18, 2009, in *State of Oregon v. Brandon Thorson*, Circuit
20 Court State of Oregon for the County of Deschutes; Case No. MI092910, entered a plea of guilty
21 to a violation of ORS 813.010 (driving under the influence of alcohol). On February 16, 2010,
22 respondent sentence was suspended and he was placed on monitored probation for 24 months
23 with conditions including 15 days of house arrest, alcohol evaluation and counseling, driver's
24 license suspension for a period of one year and payment of fees.

25 b. On or about May 25, 2006, *City of Corvallis v. Brandon Thorson*, Municipal Court
26 for the City of Corvallis, Case No. C06-00398, respondent entered a plea of guilty to a violation
27 of ORS 5.03.080 (violent conduct) and was fined \$250 with the court imposed a suspended
28

1 sentence in which was condition on respondent having no further convictions for a period of one
2 year.

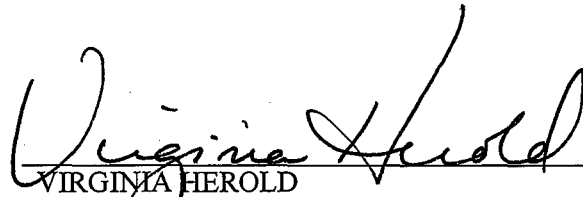
3 PRAYER

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

- 6 1. Denying the application of Brandon Philip Thoreson for a Pharmacist License; and
7 2. Taking such other and further action as deemed necessary and proper.

8
9 DATED: _____

5/4/12



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

10
11
12
13
14 SA2011101690
15 10734872.doc
16
17
18
19
20
21
22
23
24
25
26
27
28