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

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

Case No. 4157

14 **KARINA SERRANO**
307 Rodriguez Avenue
15 Shaffer, CA 93263

STATEMENT OF ISSUES

16 Pharmacy Technician Applicant

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about September 14, 2010, the Board received an application for a Pharmacy
24 Technician License from Karina Serrano ("Respondent"). On or about September 7, 2010,
25 Karina Serrano certified under penalty of perjury to the truthfulness of all statements, answers,
26 and representations in the application. The Board denied the application on June 21, 2011.

27 **JURISDICTION AND STATUTORY PROVISIONS**

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

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4. Section 480 of the Code 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 4300, subdivision (c) of the Code states, in pertinent part”

“The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure.”

6. 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:

...

(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.

...

(h) The administering to oneself, of any controlled substance, or the 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 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 the public the practice authorized by the license.

...

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction of Substantially Related Crimes)**

3 9. Respondent's application is subject to denial under section 480, subdivision (a)(1) of
4 the Code and section 4300, subdivision (c) of the Code as defined in section 4301, subdivision (l)
5 of the Code, in conjunction with California Code of Regulations, title 16, section 1770 in that
6 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
7 of a registered pharmacy technician, as follows:

8 10. On or about April 25, 2011, after pleading nolo contendere, Respondent was
9 convicted of one misdemeanor count of violating Vehicle Code section 25152(a) [drive while
10 under the influence of alcohol/drugs] in the criminal proceeding entitled *The People of the State*
11 *of California v. Karina Serrano* (Super. Ct. Kern County, 2011, No. BM785903A). The Court
12 sentenced Respondent to two (2) days in jail, placed her on three (3) years probation with terms
13 and conditions, and ordered her to complete TAASK 3-month DUI School and Victim Impact
14 Panel. The circumstances underlying the conviction are that on or about April 1, 2011,
15 Respondent drove a vehicle while under the influence of a tested 0.173% blood alcohol level and
16 with an expired driver's license.

17 11. On or about February 8, 2011, after pleading guilty, Respondent was convicted of two
18 (2) misdemeanor counts, Count 1, of violating Penal Code section 148(a)(1) [resisting arrest],
19 and Count 2, violating Vehicle Code section 14601.1(a) [drive with a suspended/revoked license]
20 in the criminal proceeding entitled *The People of the State of California v. Karina Serrano*
21 (Super. Ct. Kern County, 2008, No. BM731039A). The Court sentenced Respondent to one (1)
22 day in jail, and placed her on three (3) years probation with terms and conditions. The
23 circumstances underlying the conviction are that on or about April 27, 2008, Respondent drove a
24 vehicle while having a suspended license, and during the enforcement stop, she was
25 argumentative and resisted the officers.

26 12. On or about February 8, 2011, after pleading guilty, Respondent was convicted of one
27 count of violating Penal Code section 476A(a) [nonsufficient funds/checks over \$200] in the
28 criminal proceeding entitled *The People of the State of California v. Karina Serrano* (Super. Ct.

1 Kern County, 2006, No. BM696654A). The Court sentenced Respondent to one (1) day in jail,
2 placed her on three (3) years probation with terms and conditions, and ordered her to pay \$640.71
3 restitution. The circumstances underlying the conviction are that in exchange for services and / or
4 merchandise, Respondent wrote checks that were returned as insufficient funds by her banking
5 institution on June 25, 2004, Check No. 1164 to Price Less Clothing for \$5.71, and on October
6 29, 2004, Check No. 1053 to Stockdale Vet Hospital for \$600.00.

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

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

9 13. Respondent's application is subject to denial under section 480, subdivision (a)(2) of
10 the Code and section 4300, subdivision (c) of the Code as defined in section 4301, subdivision (f)
11 of the Code in that Respondent committed acts involving dishonesty, fraud, or deceit with the
12 intent to substantially benefit herself and / or substantially injure another when she wrote checks
13 that were returned as insufficient funds and drove without a valid license. The conduct is
14 described in more particularity in paragraphs 10 through 12 above, inclusive and herein
15 incorporated by reference.

16 **THIRD CAUSE FOR DENIAL OF APPLICATION**

17 **(Unprofessional Conduct: Dangerous Use of Alcohol)**

18 14. Respondent's application is subject to denial under section 480, subdivision (a)(2) of
19 the Code and section 4300, subdivision (c) of the Code as defined in section 4301, subdivision (h)
20 of the Code in that Respondent committed unprofessional conduct when she used alcoholic
21 beverages to the extent or in a manner as to be dangerous or injurious to herself and the public.
22 The conduct is described in more particularity in paragraph 10 above, inclusive and herein
23 incorporated by reference.

24 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

25 **(Act Which if Done by Licentiate Would be Cause for Discipline)**

26 15. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
27 of the Code as defined in section 4301, subdivision (f) of the Code in that Respondent committed
28 acts involving dishonesty, fraud or deceit, acts that if done by a licentiate of the business or

1 profession in question, would be grounds for suspension or revocation of license. The conduct is
2 described in more particularity in paragraphs 10 through 12 above, inclusive and herein
3 incorporated by reference.

4 16. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
5 of the Code as defined in section 4301, subdivision (h) of the Code in that Respondent used
6 alcohol in a manner or to an extent as to be dangerous to herself and the public, an act that if done
7 by a licentiate of the business or profession in question, would be grounds for suspension or
8 revocation of license. The conduct is described in more particularity in paragraph 10 above,
9 inclusive and herein incorporated by reference.


10 17. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
11 of the Code as defined in section 490, subdivision (a) of the Code and section 4301, subdivision
12 (l) of the Code in conjunction with California Code of Regulations, title 16, section 1770 in that
13 Respondent was convicted of substantially related crimes, acts that if done by a licentiate of the
14 business or profession in question, would be grounds for suspension or revocation of license. The
15 conduct is described in more particularity in paragraphs 10 through 12 above, inclusive and
16 herein incorporated by reference.

17 PRAYER

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

- 20 1. Denying Karina Serrano's Pharmacy Technician License Application; and
21 2. Taking such other and further action as deemed necessary and proper.

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24 DATED: 5/29/12



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

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