

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 CRISTINA FELIX  
Deputy Attorney General  
4 State Bar No. 195663  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2455  
6 Facsimile: (213) 897-2804

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  
Against:

Case No. 4203

12 **STEPHANIE MONIQUE GONZALES**  
13 9639 Haney Street  
14 Pico Rivera, CA 90660

**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 August 17, 2010, the Board of Pharmacy (Board) received an application  
22 for registration as a Pharmacy Technician from Stephanie Monique Gonzales (Respondent). On  
23 or about August 11, 2010, Respondent certified under penalty of perjury to the truthfulness of all  
24 statements, answers, and representations in the application. The Board denied the application on  
25 August 22, 2011.

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

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

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

13 7. Section 4301 states, in pertinent part:

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

17 . . . .

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

21 . . .

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

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
5 of this provision. The board may take action when the time for appeal has elapsed, or the  
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
10 indictment."

### 11 **REGULATORY PROVISIONS**

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

13 "For the purpose of denial, suspension, or revocation of a personal or facility license  
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
17 licensee or registrant to perform the functions authorized by his license or registration in a manner  
18 consistent with the public health, safety, or welfare."

### 19 **FIRST CAUSE FOR DENIAL OF APPLICATION**

#### 20 **(Convictions of Crimes)**

21 9. Respondent's application is subject to denial under section 480, subdivision (a)(1),  
22 and section 4301, subdivision (l), in that Respondent was convicted of crimes, as follows:

23 a. On or about April 14, 2011, after pleading nolo contendere, Respondent was  
24 convicted of one misdemeanor count of violating Penal Code section 415, subdivision (1)  
25 [fighting in a public place], in the criminal proceeding entitled *The People of the State of*  
26 *California v. Stephanie Monique Gonzales* (Super. Ct. Los Angeles County, 2011, No.  
27 0BF05813). The Court placed Respondent on 3 years probation, with terms and conditions. The  
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1 circumstances surrounding the conviction are that on or about December 1, 2010, Respondent  
2 entered Kohls, selected several items of clothing, and exited the store, without paying for the  
3 merchandise. Respondent was subsequently arrested for violating Penal Code section 484 [petty  
4 theft].

5 b. On or about December 31, 2009, after pleading nolo contendere, Respondent was  
6 convicted of one misdemeanor count of violating Penal Code section 484, subdivision (a) [petty  
7 theft], in the criminal proceeding entitled *The People of the State of California v. Stephanie*  
8 *Monique Gonzales* (Super. Ct. Los Angeles, 2009, No. 9WW07835). The Court sentenced  
9 Respondent to serve 1 day in Los Angeles County Jail and placed her on 36 months probation,  
10 with terms and conditions. The circumstances surrounding the conviction are that on or about  
11 December 13, 2009, Respondent unlawfully stole, took, and carried away the personal property of  
12 another, to wit: Target.

#### 13 **SECOND CAUSE FOR DENIAL OF APPLICATION**

##### 14 **(Acts Involving Dishonesty, Fraud, or Deceit)**

15 10. Respondent's application is subject to denial under section 480, subdivision (a)(2), in  
16 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to  
17 substantially benefit herself, or substantially injure another. Complainant refers to, and by this  
18 reference incorporates, the allegations set forth above in paragraph 9, subparagraph (b), as though  
19 set forth fully.

#### 20 **THIRD CAUSE FOR DENIAL OF APPLICATION**

##### 21 **(Acts Warranting Denial of Licensure)**

22 11. Respondent's application is subject to denial under sections 4301, subdivision (p) and  
23 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a  
24 licentiate of the business and profession, would be grounds for suspension or revocation of her  
25 license, as follows:

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1 a. Respondent was convicted of crimes substantially related to the qualifications,  
2 functions, or duties of a pharmacy technician which to a substantial degree evidence her present  
3 or potential unfitness to perform the functions authorized by her license in a manner consistent  
4 with the public health, safety, or welfare, in violation of sections 4031, subdivision (l), and 490,  
5 in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,  
6 and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs  
7 (a) and (b), inclusive, as though set forth fully.

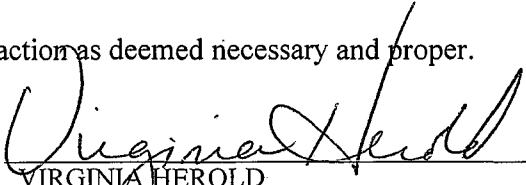
8 b. Respondent committed acts involving dishonesty, fraud, or deceit, in violation of  
9 section 4301, subdivision (f). Complainant refers to, and by this reference incorporates, the  
10 allegations set forth above in paragraph 9, subparagraph (b), as though set forth fully.

11 **PRAYER**

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

- 14 1. Denying the application of Respondent for Registration as a Pharmacy Technician;  
15 and  
16 2. Taking such other and further action as deemed necessary and proper.

17 DATED: 5/29/12

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

22 LA2011505116  
23 60706838.doc  
24 jgz/mc (2/17/12)  
25 cf (02/29/12)