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.1	KAMALA D. HARRIS Attorney General of California		
2	KAREN B. CHAPPELLE Supervising Deputy Attorney General		
3	GEOFFREY WARD		
4	Deputy Attorney General State Bar No. 246437		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013		
6	Telephone: (213) 897-2660 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER A PRACTICE.		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	T. d. M. a. C.d. Circ.	C N 4006	
11	In the Matter of the Statement of Issues Against:	Case No. 4286	
12	DOVE MONIQUE CAWTHON	CTATEMENT OF YOULEO	
13	14027 Fidler Ave	STATEMENT OF ISSUES	
14	Bellflower, CA 90706  Applicant for Pharmacy Technician License		
15	Respondent.		
16	Respondent.		
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 February 15, 2011, the Board of Pharmacy, Department of Consumer		
22	Affairs received an application for a Pharmacy Technician License from Dove Monique Cawthon		
23	("Respondent"). On or about December 17, 2010 Ms. Cawthon certified under penalty of perjury		
24	to the truthfulness of all statements, answers, and representations in the application. The Board		
25	denied the application on December 20, 2011.		
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#### **JURISDICTION**

- 3. This Statement of Issues is brought before the Board of Pharmacy ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
- 4. In pertinent part, Section 480 authorizes certain boards, including this one, to deny applications based on criminal convictions substantially related to the profession for which they apply:
  - "(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.
  - (b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the 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."

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5. Section 4300 subdivision (c) authorizes the Board to deny license applications or to grant probationary licenses to applicants who commit unprofessional conduct:

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. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.(3) Restriction of type or circumstances of practice.

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

(5) Abstention from the use of alcohol or drugs.(6) Random fluid testing for alcohol or drugs.

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

6. Section 4301 of the Code authorizes the Board to discipline licensees for unprofessional conduct and lists examples of unprofessional conduct:

"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:

(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) 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."

7. Section 4313 of the Code provides guidance for considering an applicant's rehabilitation:

"In determining whether to grant an application for licensure or whether to discipline or reinstate a license, the board shall give consideration to evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence."

# FIRST CAUSE FOR DENIAL OF APPLICATION

# (Conviction of a Crime)

- 9. Respondent's application is subject to denial under sections 480(a)(1), 4300(c) and 4301(l) in that on or about March 12, 2009, in a criminal proceeding entitled *People v. Monique Cawthon* in Los Angeles Superior Court, Case Number 9BF0129202, Respondent was convicted by plea of nolo contendere of violating Penal Code Section 487(a), commission of grand theft, a misdemeanor. She was sentenced to 10 days in jail and ordered to pay \$100 in restitution. The circumstances are as follows:
- a. On or about March 10, 2009, Los Angeles Police Department officers responded to a theft report made by Respondent's mother. She alleged Respondent stole a laptop computer from her tenant. Upon arrival, police questioned Respondent who admitted to stealing the laptop with her boyfriend in order to sell it and obtain methamphetamine. Respondent also admitted to smoking methamphetamine on the previous day, March 9, 2009.
- b. On or about March 12, 2009, Respondent was sentenced to ten days in Los Angeles County Jail, three years' probation, and ordered to pay \$100 in restitution.
- 10. Respondent's conviction for grand theft in March 2009 is "substantially related to the qualifications, functions, and duties of a licensee" because pharmacy technicians have access to valuable controlled substances, some of which can be diverted for personal use or sale.

#### SECOND CAUSE FOR DENIAL OF APPLICATION

### (Unprofessional Conduct)

11. By committing the acts alleged in paragraph 9 above, which is realleged and incorporated into this cause for denial, Respondent's application is subject to denial under

1	sections 480(a)(3)(A), 4300(c), and 4301(h) because she admitted to self-administering	
2	methamphetamine, a Schedule II controlled substance under section 11055(d)(2) of the Health	
3	and Safety Code.	
4	PRAYER	
5	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
6	and that following the hearing, the Board of Pharmacy issue a decision:	
7	1. Denying the application of Dove Monique Cawthon for a Pharmacy Technician	
8	License;	
9	2. Taking such other and further action as deemed necessary and proper.	
10	DATED Stadio 1): VI a 1	
11	DATED: 8 29 12 VIRGINIA HEROLD	
12	Executive Officer Board of Pharmacy	
13	Department of Consumer Affairs State of California	
14	Complainant	
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