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

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

Case No. 4289

13 **GREGORY LEE RAND**  
14 **P.O. Box 2304**  
**North Highlands, California 95660**

**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 1, 2011, the Board of Pharmacy, Department of Consumer  
22 Affairs received an Application for Registration as a Pharmacy Technician (Application) from  
23 Gregory Lee Rand (Respondent). On or about July 28, 2011, Respondent certified under penalty  
24 of perjury to the truthfulness of all statements, answers, and representations in the application.  
25 The Board denied the Application on December 20, 2011.

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5. Code section 4301, in pertinent part, states:

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.

....

(l) 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.

....

6. Code section 480, in pertinent part, states:

(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 which 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 (2) Done any act involving dishonesty, fraud or deceit with the intent to  
2 substantially benefit himself or another, or substantially injure another; or

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

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

8 .....

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

12 7. California Code of Regulations, title 16, section 1770, states:

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

20 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
21 administrative law judge to direct a licentiate found to have committed a violation or violations of  
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
23 enforcement of the case.

24 FIRST CAUSE FOR DENIAL OF APPLICATION

25 (Criminal Conviction)

26 9. Respondent's application is subject to denial under Code sections 480, subs. (a)(1)  
27 and (a)(3); 4300, subd. (c); and 4301, subd. (l) in that Respondent has been convicted of the  
28 following crimes that are substantially related to the qualifications, functions, and duties of a  
licensed pharmacy technician:

a. On or about April 4, 2006, in a criminal proceeding entitled *People v. Gregory Rand*  
in Sacramento County Superior Court, Case Number 06M02813, Respondent was convicted by  
plea of nolo contendere of violating Penal Code section 647(b) (prostitution), a misdemeanor.

1 The circumstances are that on or about February 22, 2006, Respondent solicited Officer J.  
2 Mezzanares of the Sacramento Police Department to engage in an act of prostitution.

3 b. On or about May 6, 2002, in a criminal proceeding entitled *People v. Gregory Lee*  
4 *Rand, Sr.* in Sacramento County Superior Court, Case Number 02T01751, Respondent was  
5 convicted by plea of nolo contendere of violating Vehicle Code section 23152(a) (driving while  
6 under the influence of alcohol), a misdemeanor. The circumstances are that on or about April 4,  
7 2002, Respondent drove a motor vehicle while having a blood alcohol level of 0.10%.

8 c. On or about May 28, 1998, in a criminal proceeding entitled *People v. Gregory Lee*  
9 *Rand, Sr.* in Sacramento County Superior Court, Case Number 98M06693, Respondent was  
10 convicted by plea of nolo contendere of violating Penal Code section 647(b) (prostitution), a  
11 misdemeanor. The circumstances are that on or about May 8, 1998, Respondent solicited a  
12 woman to engage in an act of prostitution.

13 d. On or about February 2, 1984, in a criminal proceeding entitled *The State of Ohio v.*  
14 *Gregory Rand* in the Court of Common Pleas, State of Ohio, Hamilton County, Case Number  
15 B834294, Respondent was convicted by a verdict of guilty of violating Section 2911.02 of the  
16 Ohio Revised Code (robbery), a felony. The circumstances are that on or about November 16,  
17 1983, Respondent stole retail merchandise and in fleeing immediately thereafter used, or  
18 threatened to immediately use force against Martin Scheff. Respondent was sentenced to a  
19 minimum term of eight years and a maximum term of fifteen years in the Ohio Penitentiary,  
20 Columbus, Ohio.

21 e. On or about February 1, 1982, in a criminal proceeding entitled *The State of Ohio v.*  
22 *Gregory Lee Rand* in the Court of Common Pleas, State of Ohio, Hamilton County, Case Number  
23 B814763, Respondent was convicted by plea of no contest of violating Section 2911.02 of the  
24 Ohio Revised Code (robbery), a felony. The circumstances are that on or about November 4,  
25 1981, Respondent stole personal property and in fleeing immediately thereafter used, or  
26 threatened to immediately use force against Janice R. Ayers. Respondent was sentenced to a  
27 minimum term of two years and a maximum term of fifteen years in the Ohio State Reformatory,  
28 Mansfield, Ohio.

