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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. 4378

13 **SARA SHADAB**

STATEMENT OF ISSUES

14 Applicant for Pharmacy Technician
15 Registration.

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 ("Board").

22 2. On or about October 3, 2011, the Board received an application for registration as a
23 Pharmacy Technician from Sara Shadab ("Respondent"). On or about August 12, 2011,
24 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on June 15, 2012.

26 **JURISDICTION**

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

1 otherwise indicated.

2 **STATUTORY PROVISIONS**

3 4. Code section 480 states, in pertinent part:

4 "(a) A board may deny a license regulated by this code on the grounds that the applicant
5 has one of the following:

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

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

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

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

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

23 5. Code section 490 states, in pertinent part:

24 "(a) In addition to any other action that a board is permitted to take against a licensee, a
25 board may suspend or revoke a license on the ground that the licensee has been convicted of a
26 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
27 or profession for which the license was issued.

28

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. Code section 4300 states, in pertinent part:

12 "That every license issued by the Boards is subject to discipline, including suspension or
13 revocation."

14 7. Code section 4301 states, in pertinent part:

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

18

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

22 "(g) Knowingly making or signing any certificate or other document that falsely
23 represents the existence or nonexistence of a state of facts.

24

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

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

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15 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency.

19 "(p) Actions or conduct that would have warranted denial of a license."

20 **REGULATORY PROVISIONS**

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

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

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FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Substantially-Related Crime)

9. Respondent's application is subject to denial under section 480, subdivision (a)(1) in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made as follows:

a. On or about February 16, 2005, after pleading *guilty*, Respondent was convicted of one felony count of violating United States Code, title 18, section 1543 [attempt to use a false, forged, counterfeit and altered passport], in the criminal proceeding *entitled United States of America v. Sara Shadab* (U.S. District Court, Southern District of Florida, 2004, No. 04-20904-CR-GRAHAM). The court sentenced Respondent to serve 1 day in prison, placed her on supervised release for a period of 24 months, and fined her. The circumstances surrounding the conviction are that on or about November 08, 2004, Respondent did willfully and knowingly use and attempt to use a false, forged, counterfeited, and altered passport. Respondent substituted her photograph for the original photograph on a Danish passport and presented it to an Officer of the Bureau of Customs and Border Protection in an attempt to gain entry into the United States.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Acts Involving Dishonesty, Fraud, and/or Deceit)

10. Respondent's application is subject to denial under section 480, subdivision (a)(2), in that Respondent committed dishonest acts, fraud, or deceit with the intent to substantially benefit herself. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraph 9 above, subparagraph (a), inclusive, as though fully set forth herein.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Knowingly Made a False Statement of Fact)

11. Respondent's application is subject to denial under section 480, subdivision (c), in that on or about August 12, 2011, Respondent knowingly made a false statement of fact by failing to disclose her 2005 conviction for violating United States Code, title 18, section 1543 [attempt to use a false, forged, counterfeit and altered passport] on her application for licensure. On the

1 application, Respondent answered "no" in response to the question, "Have you ever been
2 convicted of or pled no contest to a violation of the law of a foreign country, the United States or
3 any state laws or local ordinances?" In addition, Respondent signed the application under penalty
4 of perjury under the laws of the State of California, thereby certifying that her responses to the
5 questions on her application for licensure were true and correct. Complainant refers to, and by
6 this reference incorporates, the allegations set forth in paragraph 9 above, subparagraph (a),
7 inclusive, as though fully set forth herein.

8 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

9 **(Acts Warranting Denial of Licensure)**

10 12. Respondent's application is subject to denial under sections 480, subdivisions
11 (a)(3)(A) and (a)(3)(B), and section 4301, subdivision (p), in that Respondent committed a crime
12 and acts which if done by a licentiate would be grounds for suspension or revocation of her
13 license, as follows:

14 a. Respondent was convicted of a crime substantially related to the qualifications,
15 functions, or duties of a pharmacy technician which to a substantial degree evidences her present
16 or potential unfitness to perform the functions authorized by her license in a manner consistent
17 with the public health, safety, or welfare, in violation of sections 490, and 4301, subdivision (l),
18 in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,
19 and by this reference incorporates, the allegations set forth in paragraph 9 above, subparagraph
20 (a), inclusive, as though fully set forth herein.

21 b. Respondent committed a dishonest, fraudulent, or deceitful act with the intent to
22 substantially benefit herself in violation of section 480, subdivision (a)(2). Complainant refers to,
23 and by this reference incorporates, the allegations set forth in paragraph 9 above, subparagraph
24 (a), inclusive, as though fully set forth herein.

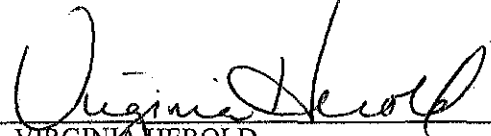
25 c. Respondent made a false statement of fact or information in connection with her
26 application for issuance of a license, in violation of section 480, subdivision (c). Complainant
27 refers to, and by this reference incorporates, the allegations set forth in paragraph 9 above,
28 subparagraph (a), inclusive, as though fully set forth herein.

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PRAYER

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

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

DATED: 11/2/12 

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

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