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7	Facsimile: (916) 327-8643 Attorneys for Complainant	•	
8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF C	CALIFORNIA	
11	In the Matter of the Statement of Issues	Case No. 4427	
12	Against:		
13	CHLOE DARRAGH SWEENEY	STATEMENT OF ISSUES	
14	Annally and Control		
15	Applicant for Pharmacy Technician Registration		
16	Respondent.		
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18	Complainant alleges:		
19	<u>PARTIES</u>		
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 January 9, 2012, the Board of Pharmacy, Department of Consumer		
24	Affairs received an application for a Pharmacy Technician Registration from Chloe Darragh		
25	Sweeney ("Respondent"). On or about November 30, 2011, Respondent certified under penalty		
26	of perjury to the truthfulness of all statements, answers, and representations in the application.		
27	The Board denied the application on June 21, 2012.		
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STATUTORY PROVISIONS

- 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.3.
 - 4. Section 4300 of the Code states, in pertinent part:
 - (c) 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.
 - 5. California Code of Regulations, title 16, section 1770, states:

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

6. Code section 4301 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:

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

7. Section 480 of the Code 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 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.
- (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.

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FIRST CAUSE FOR DENIAL OF APPLICATION

(Criminal Conviction)

- 8. Respondent's application is subject to denial pursuant to Code sections 4301, subdivision (1), and 480, subdivision (a)(1), in that on or about January 18, 2011, in the case titled *People v. Chloe Darragh Sweeney*, Colusa County Superior Court Case No. CR52367, Respondent was convicted on her plea of nolo contendere to violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol], a misdemeanor.
- a. The underlying circumstances are: On or about June 7, 2010, Respondent drove a motor vehicle in excess of the speed limit and was stopped by a law enforcement officer. The officer observed Respondent's objective signs of intoxication. Respondent admitted to drinking alcoholic beverages prior to driving the vehicle. She was unable to complete Field Sobriety Tests and had a high Preliminary Alcohol Screening. Respondent's BAC was .23 percent by chemical test.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Acts if Done by a Licentiate)

9. Respondent's application is subject to denial pursuant to Code section 480, subdivision (a)(3)(A), in that Respondent has committed acts which if done by a licentiate of the profession would constitute cause for suspension or revocation of a license pursuant to Code section 4301, subdivisions (h), (l), and (p), as set forth in paragraph 8, above, incorporated herein by this reference.

PRAYER

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

 Denying the application of Chloe Darragh Sweeney for a Pharmacy Technician Registration;

1	2. Taking such other and further action as deemed necessary and proper
2	1/7/17
3	DATED: 17/13 VIRGINIA HEROLD
4	Executive Officer Board of Pharmacy Department of Consumer Affairs State of California
5	State of California
6	Complainant
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