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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 Against:

Case No. 4430

12 **JULIA SCHMIDTHUES**

STATEMENT OF ISSUES

13 Applicant for Registration as a Pharmacy
14 Technician

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 January 27, 2012, the Board of Pharmacy ("Board") received an
22 application for registration as a Pharmacy Technician from Julia Schmidthues ("Respondent").

23 On or about January 18, 2012, Julia Schmidthues certified under penalty of perjury to the
24 truthfulness of all statements, answers, and representations in the application. On July 3, 2012,
25 the Board denied the application.

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1 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous
2 or injurious to oneself, to a person holding a license under this chapter, or to any other
3 person or to the public, or to the extent that the use impairs the ability of the person to
4 conduct with safety to the public the practice authorized by the license.

5 ...

6 (l) The conviction of a crime substantially related to the qualifications,
7 functions, and duties of a licensee under this chapter. The record of conviction of a
8 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States
9 Code regulating controlled substances or of a violation of the statutes of this state
10 regulating controlled substances or dangerous drugs shall be conclusive evidence of
11 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
12 evidence only of the fact that the conviction occurred. The board may inquire into the
13 circumstances surrounding the commission of the crime, in order to fix the degree of
14 discipline or, in the case of a conviction not involving controlled substances or dangerous
15 drugs, to determine if the conviction is of an offense substantially related to the
16 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of
17 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction
18 within the meaning of this provision. The board may take action when the time for appeal
19 has elapsed, or the judgment of conviction has been affirmed on appeal or when an order
20 granting probation is made suspending the imposition of sentence, irrespective of a
21 subsequent order under Section 1203.4 of the Penal Code allowing the person to
22 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
23 verdict of guilty, or dismissing the accusation, information, or indictment.

24 ...

25 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
26 abetting the violating of or conspiring to violate any provision or term of this chapter or
27 of the applicable federal and state laws and regulations governing pharmacy, including
28 regulations established by the board or any other state or federal regulator agency.

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

2 **REGULATORY PROVISION**

3 6. California Code of Regulations, title 16, section 1770, provides:

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

10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(Conviction of a Substantially Related Crime)**

12 7. Respondent's application for licensure is subject to denial under Code sections
13 480(a)(1) and 4301(l), in accordance with California Code of Regulations, title 16, section 1770,
14 because the Respondent has been convicted of a crime that is substantially related to the
15 qualifications, functions, and duties of a pharmacy technician.

16 a. On November 14, 2011, in the Superior Court of the State of California, County of
17 San Luis Obispo, the Respondent entered a plea of no contest and was convicted of a violation of
18 Vehicle Code section 23152(b), namely driving while having 0.08% or more, by weight, of
19 alcohol in the blood, as a misdemeanor. The Respondent was sentenced to three years probation,
20 ordered to serve 10 days in jail, complete alcohol counseling, and pay a fine. (*People of the State*
21 *of California v. Julia Schmidthues, Superior Court of the State of California, County of San Luis*
22 *Obispo, Case No. M000463923*).

23 b. On August 12, 2011, at approximately 2:00 a.m. the California Highway Patrol
24 stopped the Respondent's vehicle after observing a traffic violation. Upon contact, the police
25 noticed that the Respondent emitted a strong odor of alcohol, red watery eyes, and slurred speech.
26 The Respondent was asked to perform field sobriety tests, which she failed to perform as
27 explained and demonstrated. The Respondent later provided two breath samples, which indicated
28 a blood alcohol content of .24%. .24%. She admitted drinking alcohol before driving.

1 forth in paragraph 7 above, subparagraph (a) and (b), inclusive, as though set forth fully.

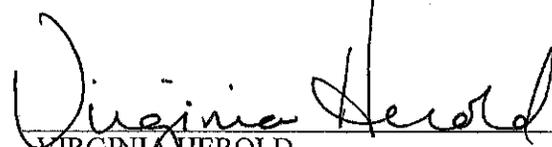
2 **PRAYER**

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

5 1. Denying the application of Julia Schmidthues for registration as a Pharmacy
6 Technician; and

7 2. Taking such other and further action as deemed necessary and proper.

8
9 DATED: 7/22/13



10 VIRGINIA HEROLD
11 Executive Officer
12 Board of Pharmacy
13 Department of Consumer Affairs
14 State of California
15 *Complainant*

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