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

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

Case No. 4840

12 **ERIKA G. QUINTON**

STATEMENT OF ISSUES

13 Respondent.

14
15
16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about November 16, 2012, the Board of Pharmacy, Department of Consumer
21 Affairs received an application for a pharmacy technician registration from Erika G. Quinton
22 (Respondent). On or about November 2, 2012, Erika G. Quinton certified under penalty of
23 perjury to the truthfulness of all statements, answers, and representations in the application. The
24 Board denied the application on May 10, 2013.

25 JURISDICTION

26 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 4300 of the Code states:

2 "....

3 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
4 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
5 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
6 may issue the license subject to any terms or conditions not contrary to public policy, including,
7 but not limited to, the following:

8 "(1) Medical or psychiatric evaluation.

9 "(2) Continuing medical or psychiatric treatment.

10 "(3) Restriction of type or circumstances of practice.

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

12 "(5) Abstention from the use of alcohol or drugs.

13 "(6) Random fluid testing for alcohol or drugs.

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

15 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
16 certificate of licensure for any violation of the terms and conditions of probation. Upon
17 satisfactory completion of probation, the board shall convert the probationary certificate to a
18 regular certificate, free of conditions.

19 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
20 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
21 shall have all the powers granted therein. The action shall be final, except that the propriety of the
22 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
23 Procedure."

24 5. Section 118(a) of the Code states:

25 "The withdrawal of an application for a license after it has been filed with a board in the
26 department shall not, unless the board has consented in writing to such withdrawal, deprive the
27 board of its authority to institute or continue a proceeding against the applicant for the denial of
28

1 the license upon any ground provided by law or to enter an order denying the license upon any
2 such ground."

3 6. Section 4301 of the Code states:

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

7 ". . . .

8 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
9 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
10 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
11 to the extent that the use impairs the ability of the person to conduct with safety to the public the
12 practice authorized by the license.

13 ". . . .

14 "(k) The conviction of more than one misdemeanor or any felony involving the use,
15 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
16 combination of those substances.

17 "(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
25 dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.

6 7. Section 480 of the Business and Professions Code provides, in pertinent part, that a
7 board may deny a license if the applicant has been convicted of a crime substantially related to the
8 qualifications, functions or duties of the business or profession for which application is made, has
9 committed any act involving dishonesty, fraud or deceit, has committed any act which if done by
10 a licentiate would be grounds for suspension or revocation of a license, or has knowingly made a
11 false statement of fact required to be revealed in the application.

12 FIRST CAUSE FOR DENIAL OF APPLICATION

13 (Criminal Convictions)

14 8. Respondent's application is subject to denial under sections 480, 4301(k), and 4301(l)
15 of the Code in that she was convicted of a crime substantially related to the duties, functions, or
16 qualifications of a pharmacy technician. The circumstances are as follows:

17 9. On or about October 11, 2011, in the Superior Court of California, County of
18 Alameda, in the case entitled *People v. Erika Georgena Quinton*, Case # 435851, Respondent
19 pled no contest to and was convicted of violating California Vehicle Code section 23152(b)
20 (driving with blood alcohol concentration greater than .08%), a misdemeanor, with an
21 enhancement for blood alcohol concentration greater than .15%. The circumstances were that on
22 May 21, 2011, Respondent drove a vehicle while heavily intoxicated and was arrested.

23 10. On or about January 24, 2013, in the Superior Court of California, County of
24 Alameda, in the case entitled *People v. Erika Georgena Quinton*, Case # 247896, Respondent
25 pled no contest to and was convicted of violating California Vehicle Code section 23152(b)
26 (driving with blood alcohol concentration greater than .08%), a misdemeanor, with one prior
27 offense. The circumstances were that on or around October 17, 2012, while Respondent was
28 driving on a suspended license without the required court-ordered interlock device, she was pulled

1 over for a missing taillight and was found to be intoxicated, registering a .14% blood-alcohol
2 concentration when tested.

3 SECOND CAUSE FOR DENIAL OF APPLICATION

4 (Dangerous Use of Alcohol)

5 11. Respondent's application is subject to denial under section 4301(h) of the Code in that
6 Respondent used alcohol in the manner or to an extent that was dangerous to herself, to another,
7 or to the public. The circumstances are described above in the First Cause for Denial of
8 Application.

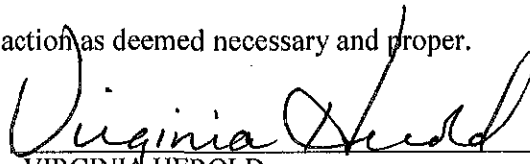
9 PRAYER

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

- 12 1. Denying the application of Erika G. Quinton for a Pharmacy Technician Registration;
13 2. Taking such other and further action as deemed necessary and proper.

14 DATED: _____

9/6/13



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

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