1 2	KAMALA D. HARRIS Attorney General of California FRANK H. PACOE
3	Supervising Deputy Attorney General JUSTIN R. SURBER
4	Deputy Attorney General State Bar No. 226937
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004
6	Telephone: (415) 355-5437 Facsimile: (415) 703-5480
7	Attorneys for Complainant
8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Statement of Issues Case No. 5085
12	ERICA LYNN BOWMAN STATEMENT OF ISSUES
13	Respondent.
14	
15	Complainant alleges:
16	PARTIES
17	1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
18	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
19	2. On or about May 21, 2013, the Board of Pharmacy, Department of Consumer Affairs
20	received an application for registration as a Pharmacy Technician from Erica Lynn Bowman
21	(Respondent). On or about May 15, 2013, Erica Lynn Bowman certified under penalty of perjury
22	to the truthfulness of all statements, answers, and representations in the application. The Board
23	denied the application on October 16, 2013.
24	JURISDICTION
25	3. This Statement of Issues is brought before the Board of Pharmacy (Board),
26	Department of Consumer Affairs, under the authority of the following laws. All section
27	references are to the Business and Professions Code unless otherwise indicated.
28	4. Section 480 of the Code states:
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"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following: 2

"(1) Been convicted of a crime. A conviction within the meaning of this section means a 3 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a 4 5 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 6 order granting probation is made suspending the imposition of sentence, irrespective of a 7 subsequent order under the provisions of Section 1203.4 of the Penal Code. 8

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially 9 benefit himself or herself or another, or substantially injure another. 10

"(3) (A) Done any act that if done by a licentiate of the business or profession in question, 11 would be grounds for suspension or revocation of license. 12

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is 13 substantially related to the qualifications, functions, or duties of the business or profession for 14 15 which application is made.

"(b) Notwithstanding any other provision of this code, no person shall be denied a license 16 solely on the basis that he or she has been convicted of a felony if he or she has obtained a 17 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of 18 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has 19 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate 20 the rehabilitation of a person when considering the denial of a license under subdivision (a) of 21 Section 482. 22

"(c) A board may deny a license regulated by this code on the ground that the applicant 23 knowingly made a false statement of fact required to be revealed in the application for the 24 license." 25

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Section 4300 of the Code states: 5.

"(a) Every license issued may be suspended or revoked.

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1	"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
2	board may, in its sole discretion, issue a probationary license to any applicant for a license who is
3	guilty of unprofessional conduct and who has met all other requirements for licensure. The board
4	may issue the license subject to any terms or conditions not contrary to public policy, including,
5	but not limited to, the following:
6	"(1) Medical or psychiatric evaluation.
7	"(2) Continuing medical or psychiatric treatment.
8	"(3) Restriction of type or circumstances of practice.
9	"(4) Continuing participation in a board-approved rehabilitation program.
10	"(5) Abstention from the use of alcohol or drugs.
11	"(6) Random fluid testing for alcohol or drugs.
12	"(7) Compliance with laws and regulations governing the practice of pharmacy.
13	••••
14	"(e) The proceedings under this article shall be conducted in accordance with Chapter 5
15	(commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
16	shall have all the powers granted therein. The action shall be final, except that the propriety of the
17	action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
18	Procedure."
19	6. Section 4301 of the Code states:
20	"The board shall take action against any holder of a license who is guilty of unprofessional
21	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
22	Unprofessional conduct shall include, but is not limited to, any of the following:
23	•••
24	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
25	corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
26	whether the act is a felony or misdemeanor or not.
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"(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.

- 7 "(j) The violation of any of the statutes of this state, or any other state, or of the United
 8 States regulating controlled substances and dangerous drugs.
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"(1) The conviction of a crime substantially related to the qualifications, functions, and 10 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 11 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 12 13 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 14 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 15 The board may inquire into the circumstances surrounding the commission of the crime, in order 16 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or 17 dangerous drugs, to determine if the conviction is of an offense substantially related to the 18 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 19 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 20 of this provision. The board may take action when the time for appeal has elapsed, or the 21 judgment of conviction has been affirmed on appeal or when an order granting probation is made 22 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 23 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 24 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 25 indictment. 26

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California Code of Regulations, title 16, section 1770, states:

1	"For the purpose of denial, suspension, or revocation of a personal or facility license
2	pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
3	crime or act shall be considered substantially related to the qualifications, functions or duties of a
4	licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
5	licensee or registrant to perform the functions authorized by his license or registration in a manner
6	consistent with the public health, safety, or welfare."
7	FIRST CAUSE FOR DENIAL OF APPLICATION
8	(Conviction)
9	8. Respondents application is subject to denial under sections 480(a)(1) of the code and
10	section 4300(c) of the code in conjunction with 4301(l) of the code in the Respondent was
11	convicted of a crime that is substantially related to the duties, functions, and qualifications of a
12	pharmacy technician. On or about September 15, 2009, in Monterrey County Superior Court
13	Case No. MS279468A, Respondent was convicted of violating Penal Code Section 484, petty
14	theft. On or about July 20, 2009, Respondent stole from a Macys store.
15	SECOND CAUSE FOR DENIAL OF APPLICATION
16	(Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)
17	9. Respondents application is subject to denial under sections 480(a)(2) of the code in
18	conjunction with sections 4300(c) and 4301(f) of the code in the Respondent committed an act
19	involving act involving moral turpitude, dishonesty, fraud, deceit, or corruption. If this act was
20	performed by a licensee it would be cause for discipline. The circumstances are described in
21	paragraph 8, above.
22	THIRD CAUSE FOR DENIAL OF APPLICATION
23	(Violation of Drug Laws)
24	10. Respondents application is subject to denial under sections 480(a)(2) of the code in
25	conjunction with sections 4300(c) and 4301(j) of the code in the Respondent violated the drug
26	laws of California in follows:
27	a) On or about July 16, 2008, Respondent violated Health and Safety Code Section
28	11377(A), possession of a controlled substance. Respondent possessed heroin and marijuana.
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1	b) On or about October 10, 2010, Respondent possessed marijuana in violation of Health
2	and Safety Code section 11357(b).
3	FOURTH CAUSE FOR DENIAL OF APPLICATION
4	(Self Administration of Controlled Substances)
5	11. Respondents application is subject to denial under sections 480(a)(2) of the code in
6	conjunction with sections 4300(c) and 4301(h) of the code in the Respondent self administered
7	the controlled substances marijuana and heroin on multiple occasions in and around 2008. The
8	self administered the controlled substances marijuana and heroin would be cause for discipline if
9	done by a registered Pharmacy Technician.
10	PRAYER
11	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12	and that following the hearing, the Board of Pharmacy issue a decision:
13	1. Denying the application of Erica Lynn Bowman for registration as Pharmacy
14	Technician;
15	2. Taking such other and further action as deemed necessary and proper.
16	DATED: 4/5/14 Maine Leedd
17	VIRGINIA HEROLD Executive Officer
18	Board of Pharmacy Department of Consumer Affairs
19	State of California Complainant
20	Comptantant
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