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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. 5090

12 **JORDAN MATTHEW GERACI**

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 July 8, 2013, the Board of Pharmacy, Department of Consumer Affairs
20 received an application for registration as a Pharmacy Technician from Jordan Matthew Geraci
21 (Respondent). On or about July 4, 2013, Jordan Matthew Geraci certified under penalty of
22 perjury to the truthfulness of all statements, answers, and representations in the application. The
23 Board denied the application on December 3, 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

1 4. Section 480 of the Code states:

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

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

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

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

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

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

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

27 5. Section 4300 of the Code states:

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

1 "(b) The board shall discipline the holder of any license issued by the board, whose default
2 has been entered or whose case has been heard by the board and found guilty, by any of the
3 following methods:

4 "(1) Suspending judgment.

5 "(2) Placing him or her upon probation.

6 "(3) Suspending his or her right to practice for a period not exceeding one year.

7 "(4) Revoking his or her license.

8 "(5) Taking any other action in relation to disciplining him or her as the board in its
9 discretion may deem proper.

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

15 "(1) Medical or psychiatric evaluation.

16 "(2) Continuing medical or psychiatric treatment.

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

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

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

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

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

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

26 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
27 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
28 shall have all the powers granted therein. The action shall be final, except that the propriety of the

1 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
2 Procedure."

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

25 ...

26 7. California Code of Regulations, title 16, section 1770, states:

27 "For the purpose of denial, suspension, or revocation of a personal or facility license
28 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a

1 crime or act shall be considered substantially related to the qualifications, functions or duties of a
2 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
3 licensee or registrant to perform the functions authorized by his license or registration in a manner
4 consistent with the public health, safety, or welfare."

5 FIRST CAUSE FOR DENIAL OF APPLICATION

6 (Conviction)

7 8. Respondent's application is subject to denial under Code sections 480(a)(1) and
8 4300(c) in conjunction with Code section 4301(l) in that Respondent was convicted of a crime
9 that is substantially related to the duties, functions, or qualifications of a pharmacy technician. On
10 or about August 15, 2009, in a criminal proceeding entitled People v. Jordan Geraci, Santa Clara
11 County Superior Court, Case Number CC935337, Respondent was convicted by plea of nolo
12 contendere in Penal Code section 261.5(c), sex with a minor more than 3 years younger.

13 SECOND CAUSE FOR DENIAL OF APPLICATION

14 (Failure to Disclose Conviction)

15 9. Respondent's application is subject to denial under section 480(c) of the code in that
16 Respondent knowingly made a false statement of fact required to be revealed in the application
17 for the license. Respondent failed to disclose the conviction mentioned in paragraph 8 on his
18 application. Respondent marked the Box "No" to question 7 on his application. Question 7 asked
19 whether Respondent had ever been convicted of a crime. Respondent had ben convicted of a
20 crime as described in paragraph 8, above.

21 PRAYER

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

24 1. Denying the application of Jordan Matthew Geraci for registration as Pharmacy
25 Technician;

26 ///

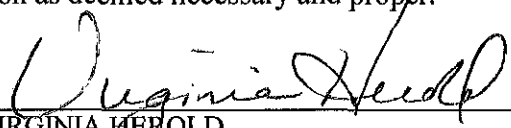
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2. Taking such other and further action as deemed necessary and proper.

DATED: 4/20/14


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

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