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7 *Attorneys for Complainant*

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. 5402

12 **SELENE REYES**

STATEMENT OF ISSUES

13 Pharmacy Technician Registration Applicant

14 Respondent.
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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 (Board), Department of Consumer
21 Affairs.

22 2. On or about May 5, 2014, the Board received an application for a Pharmacy
23 Technician Registration from Selene Reyes (Respondent). On or about April 30, 2014,
24 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on October 13, 2014.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 4. Section 4300, subdivision (c), states, in pertinent part:

6 "The board may refuse a license to any applicant guilty of unprofessional conduct. The
7 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
8 guilty of unprofessional conduct and who has met all other requirements for licensure. . . ."

9 **STATUTORY AND REGULATORY PROVISIONS**

10 5. Section 480 states, in pertinent part:

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

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

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

19 "(c) Notwithstanding any other provisions of this code, a person shall not be denied a
20 license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4,
21 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been
22 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof
23 of the dismissal."

24 6. Section 492 states:

25 "Notwithstanding any other provision of law, successful completion of any diversion
26 program under the Penal Code, or successful completion of an alcohol and drug problem
27 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
28 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2

1 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
2 division, from taking disciplinary action against a licensee or from denying a license for
3 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
4 record pertaining to an arrest.

5 "This section shall not be construed to apply to any drug diversion program operated by any
6 agency established under Division 2 (commencing with Section 500) of this code, or any initiative
7 act referred to in that division."

8 7. Section 4301 states, in pertinent part:

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

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13 "(j) The violation of any of the statutes of this state, or any other state, or of the United
14 States regulating controlled substances and dangerous drugs."

15 8. **CONTROLLED SUBSTANCE**

16 "Methamphetamine," is a Schedule II controlled substance as defined in Health and Safety
17 Code section 11055(d)(2) and is categorized as a dangerous drug pursuant to section 4022.

18 **CAUSE FOR DENIAL OF APPLICATION**

19 **(Acts Warranting Denial of Licensure)**

20 9. Respondent's application is subject to denial under sections 4301, subdivision (j) and
21 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a
22 registered pharmacy technician would be grounds for suspension or revocation of the license as
23 follows:

24 a. On or about April 15, 2013, a Los Angeles Police officer conducted a traffic
25 enforcement stop after Respondent failed to stop at a clearly posted stop sign. When asked for her
26 identification, Respondent indicated it was in her purse. Respondent consented to a search of her
27 purse so the officer could retrieve her ID. When the officer opened the purse, he found 3

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1 individual clear plastic bindles that contained a crystalline substance that he recognized as
2 Methamphetamine.

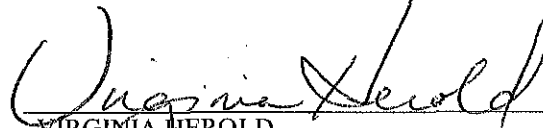
3 b. On or about June 5, 2013, after pleading guilty, the Court placed Respondent on 18
4 months Deferred Entry of Judgment for violating Health and Safety code section 11377,
5 subdivision (a) [possession of a controlled substance] in the criminal proceeding entitled *The*
6 *People of the State of California v. Selene Reyes* (Super. Ct. Los Angeles County, 2013, No.
7 BA410187). On or about December 5, 2014, the Court dismissed the case after Respondent
8 successfully completed the deferred entry of judgment program.

9 **PRAYER**

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

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

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15 DATED: 10/6/15



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

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