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8	Attorneys for Complainant	
9	BEFORE THE BOARD OF PHARMACY	
	DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11	In the Matter of the Statement of Issues	Case No. 5823
12	Against:	
13	KARINA DENISE CASTILLO	STATEMENT OF ISSUES
14	Pharmacy Technician Registration Applicant	
15	Respondent.	
16	, respondent.	
17	· .	
18	Complainant alleges:	
19	PARTIES	
20	1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official	
21	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.	
22	2. On or about October 16, 2015, the Board of Pharmacy, Department of Consumer	
23	Affairs received an application for a Pharmacy Technician Registration from Karina Denise	
24	Castillo (Respondent). On or about October 13, 2015, Karina Denise Castillo certified under	
25	penalty of perjury to the truthfulness of all statements, answers, and representations in the	
26	application. The Board denied the application on March 11, 2016.	
27	<i>III</i>	
28	<i>III</i>	·

#### **JURISDICTION**

- 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
  Department of Consumer Affairs, under the authority of the following laws. All section
  references are to the Business and Professions Code unless otherwise indicated.
  - 4. Section 118 of the Code states, in relevant part:
- "(a) The withdrawal of an application for a license after it has been filed with a board in the department shall not, unless the board has consented in writing to such withdrawal, deprive the board of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground."

### STATUTORY AND REGULATORY PROVISIONS

- 5. Section 480 of the Code states:
- "(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- "(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a 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 order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.
- "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
- "(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- "(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.
  - "(b) Notwithstanding any other provision of this code, a person shall not be denied a

license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

- "(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.
- "(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license."
  - 6. Section 4301 of the Code states, in relevant part:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the following:

- "(a) Gross immorality.
- "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
- "(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 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 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment."

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

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

- 8. California Code of Regulations, title 16, section 1769, states:
- "(a) When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:
- "(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.
- "(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.

- "(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- "(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
  - "(5) Evidence, if any, of rehabilitation submitted by the applicant.
- "(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:
  - "(1) Nature and severity of the act(s) or offense(s).
  - "(2) Total criminal record.
  - "(3) The time that has elapsed since commission of the act(s) or offense(s).
- "(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
  - "(5) Evidence, if any, of rehabilitation submitted by the licensee."

#### BACKGROUND

9. On or about October 27, 2011, Respondent and a male friend (suspect 1) attempted to sell a Sony PlayStation III game console (console) and three PlayStation III game cartridges (games) to a store in Napa. The store bought two of the three games but refused to buy the console because it did not have any controllers or the proper wiring. The store refused to buy the third game because it was in the console. The console and game cartridges had been stolen earlier that day from the garage of a house in Napa, California. On or about October 29, 2011, officers from the Napa Police Department served a search warrant at the residence of suspect 1, and located the stolen game console. At the time of the execution of the search warrant, Respondent was present at the residence of suspect 1. Respondent told officers that she had gone to the store in Napa with suspect 1 to sell the game console and games, but claimed she did not know they were stolen. Further, Respondent admitted that when she went into the store with the game

console and games she was wearing sunglasses and a hat, but claimed that she always wears sunglasses and a hat. Officers arrested Respondent for burglary and receiving stolen property.

10. On or about January 18, 2012, in a criminal matter entitled *The People of the State of California v. Karina Denise Castillo*, in the Napa County Superior Court, Case No. CR150305, Respondent, based on a plea of no contest, was convicted of receiving stolen property (Pen. Code, § 496, subd. (a)), a misdemeanor. The court sentenced Respondent to serve 4 days in jail, and placed her on probation for two years with various conditions, and ordered her to pay a fine of \$100.00.

## FIRST CAUSE FOR DENIAL OF APPLICATION (Conviction of Substantially Related Crime) (Bus. & Prof. Code §§ 480, subd. (a)(1))

11. Respondent's application for a Pharmacy Technician Registration is subject to denial under Code sections 480, subdivision (a)(1), in that, on or about January 18, 2012, Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a registered pharmacy technician. The circumstances are explained in paragraphs 9 and 10, above.

## SECOND CAUSE FOR DENIAL OF APPLICATION (Dishonest Act) (Bus. & Prof. Code §§ 480, subd. (a)(2))

12. Respondent's application for a Pharmacy Technician Registration is subject to denial under Code section 480, subdivision (a)(2), in that, on or about October 27, 2011, Respondent committed an act involving dishonesty. The circumstances are explained in paragraphs 9 and 10, above.

# THIRD CAUSE FOR DENIAL OF APPLICATION (Committed Act Which Could Be Basis For Discipline Against Licensee) (Bus. & Prof. Code §§ 480, subd. (a)(3), 4301, subd. (l))

13. Respondent's application for a Pharmacy Technician Registration is subject to denial under Code section 480, subdivision (a)(3), by reference to Code section 4301, subdivision (l), in that Respondent committed an act that if done be a registered pharmacy technician would be grounds for suspension or revocation of the registration (Bus. & Prof. Code, § 480, subd. (a)(3)).

At the time of the sentencing, Respondent was given credit for four days of jail time already served.

1	Specifically, Respondent was convicted of a crime substantially related to the qualifications,	
2	functions, and duties of a registered pharmacy technician (Bus. & Prof. Code, § 4301, subd. (1)).	
3	The circumstances are explained in paragraphs 9 and 10, above.	
4	PRAYER	
5	WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this	
6	Statement of Issues, and that following the hearing, the Board of Pharmacy issue a decision:	
7.	1. Denying the application of Karina Denise Castillo for a Pharmacy Technician	
8	Registration;	
9	2. Taking such other and further action as deemed necessary and proper.	
10	8/11/16 Ougine Hedd	
11	DATED: VIRGINIA HEROLD	
12	Executive Officer Board of Pharmacy	
13	Department of Consumer Affairs State of California	
14	Complainant	
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