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

12 In the Matter of the Statement of Issues
13 Against:

Case No. 5984

14 **TERI LYNN GILBERT**

STATEMENT OF ISSUES

15 **Pharmacist License Applicant**

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 (Board), Department of Consumer
22 Affairs.

23 2. On or about March 29, 2016, the Board received an application for a Pharmacist
24 License from Teri Lynn Gilbert (Respondent). On or about March 20, 2016, Teri Lynn Gilbert
25 certified under penalty of perjury to the truthfulness of all statements, answers, and
26 representations in the application. The Board denied the application on July 26, 2016.

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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 (Code) unless
4 otherwise indicated.

5 4. Section 4300, subdivision (c) of the Code states: "The board may refuse a license to
6 any applicant guilty of unprofessional conduct. . . ."

7 **STATUTORY PROVISIONS**

8 5. Section 475 of the Code states:

9 (a) Notwithstanding any other provisions of this code, the provisions of this
10 division shall govern the denial of licenses on the grounds of:

11 (1) Knowingly making a false statement of material fact, or knowingly omitting
12 to state a material fact, in an application for a license.

13 (2) Conviction of a crime.

14 (3) Commission of any act involving dishonesty, fraud or deceit with the intent
15 to substantially benefit himself or another, or substantially injure another.

16 (4) Commission of any act which, if done by a licentiate of the business or
17 profession in question, would be grounds for suspension or revocation of license.

18 (b) Notwithstanding any other provisions of this code, the provisions of this
19 division shall govern the suspension and revocation of licenses on grounds specified in
20 paragraphs (1) and (2) of subdivision (a) .

21 (c) A license shall not be denied, suspended, or revoked on the grounds of a lack
22 of good moral character or any similar ground relating to an applicant's character,
23 reputation, personality, or habits.

24 6. Section 480 of the Code states:

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

27 . . .

28 (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.

(3)(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. . .

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1 7. Section 4301 of the Code states:

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

6 ...

7 (n) The revocation, suspension, or other discipline by another state of a license to
8 practice pharmacy, operate a pharmacy, or do any other act for which a license is
9 required by this chapter. ...

10 **FIRST CAUSE FOR DENIAL OF APPLICATION**

11 **(2011 Out-of-State Discipline Against Washington Pharmacist Credential)**

12 8. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
13 of the Code in that her Washington pharmacist credential was subjected to discipline by the
14 Washington Pharmacy Quality Assurance Committee, an act that would be grounds for discipline
15 under Code section 4301, subdivision (n) for pharmacist licensed in California. The
16 circumstances are as follows:

17 9. Respondent was issued a credential to practice as a pharmacist in the State of
18 Washington by the Pharmacy Quality Assurance Commission (Commission) on January 28,
19 1999.

20 10. On July 29, 2011, in case number M2011-23, the Commission filed a Statement of
21 Allegations and Summary of Evidence alleging that on or about May 16, 2009, while working as
22 the sole pharmacist at a Yakima, Washington pharmacy, she self-filled her own prescription for a
23 Schedule III controlled substance.

24 11. On August 2, 2011, Respondent entered into a Stipulation to Informal Disposition.
25 Respondent acknowledged that a finding of unprofessional conduct or inability to practice based
26 on the Commission's allegations, if proven, would constitute grounds for discipline under the
27 Revised Code of Washington (RCW) 18.130.180(7), via a violation of RCW 69.50.308(3)(i).

28 12. Effective August 12, 2011, Respondent's credential was placed on probation for a
term of two years. Respondent was required to reimburse the Commission costs in the amount of
\$1,000.00 within six months of the effective date of the stipulation. Respondent was prohibited

1 from serving as a preceptor, or supervising pharmacy interns for the duration of the probation
2 period. Respondent was further required to complete five hours of continuing education in the
3 area of Law.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 **(2016 Out-of-State Discipline Against Washington Pharmacist Credential)**

6 13. Respondent's application is subject to denial under sections 480, subdivision (a)(1)
7 of the Code in that her Washington pharmacist credential was subjected to discipline by the
8 Washington Pharmacy Quality Assurance Committee, an act that would be grounds for discipline
9 under Code section 4301, subdivision (n) for pharmacist licensed in California. The
10 circumstances are as follows:

11 14. On March 17, 2015, in case number M2015-284, the Commission filed a
12 Statement of Allegations and Summary of Evidence alleging that in or about March 2014, during
13 a staff meeting at the Ellensburg, Washington, hospital where she was employed as a pharmacist,
14 Respondent stated that she had given the legend drug Fioricet (acetaminophen, butalbital and
15 caffeine) to staff nurses when they had headaches. When interviewed by a (Washington)
16 Department of Health investigator on October 21, 2014, Respondent acknowledged that while
17 working at the hospital, she diverted and/or delivered to other staff, without prescriptions, the
18 legend drugs Fioricet, Imitrex (sumatriptan) and Naproxen.

19 15. On November 13, 2015, Respondent entered into a Stipulation to Informal
20 Disposition. Respondent acknowledged that a finding of unprofessional conduct or inability to
21 practice based on the Commission's allegations, if proven, would constitute grounds for
22 discipline under the Revised Code of Washington (RCW) 18.130.180(1), (6), (7), and (23)(c); and
23 RCW 18.64.160(3).

24 16. The Washington Administrative Code 246-16-800(2)(b)(iii) states:

25 Surrender of a credential may be imposed when the license holder is at the end of
26 his or her effective practice and surrender alone is enough to protect the public. The
license holder must agree to retire and not resume practice.

27 17. The Commission determined that the permanent surrender of Respondent's
28 pharmacist credential was an appropriate sanction in this case. Effective January 14, 2016,

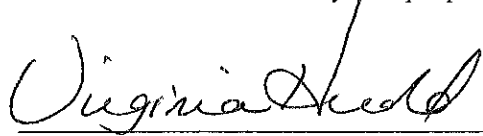
1 Respondent's credential to practice pharmacy in Washington was surrendered, and she agreed not
2 to resume practice in the State of Washington. Respondent's pharmacy credential is not eligible
3 for reinstatement in the future.

4 **PRAYER**

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

- 7 1. Denying the application of Teri Lynn Gilbert for a Pharmacist License;
8 2. Taking such other and further action as deemed necessary and proper.

9
10 DATED: 11/2/16



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

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