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7
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:
12 **CAROLYN SHARANE POWELL**
13 Applicant for Pharmacy Technician License
14 Respondent.

Case No. 6067

STATEMENT OF ISSUES

15
16 Complainant alleges:

17 PARTIES

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
20 Affairs.

21 2. On or about June 7, 2016, the Board received an application for a Pharmacy
22 Technician License from Carolyn Sharane Powell (Respondent). On or about June 1, 2016,
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
24 representations in the application. The Board denied the application on December 19, 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. Code section 4300, subdivision (c) states, in pertinent part, “[t]he board may refuse a
6 license to any applicant guilty of unprofessional conduct.”

7 STATUTORY PROVISIONS

8
9 5. Code section 480 states:

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

12 (1) Been convicted of a crime. A conviction within the meaning of this section
13 means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any
14 action that a board is permitted to take following the establishment of a conviction may be
15 taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed
16 on appeal, or when an order granting probation is made suspending the imposition of
17 sentence, irrespective of a subsequent order under the provisions of Section 1203.4,
18 1203.4a, or 1203.41 of the Penal Code.

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

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

23 (B) The board may deny a license pursuant to this subdivision only if the crime
24 or act is substantially related to the qualifications, functions, or duties of the business or
25 profession for which application is made.
26 ...

27 (c) Notwithstanding any other provisions of this code, a person shall not be denied a license
28 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.

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1 6. Code section 4301 states:

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

5 ...

6 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
7 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
8 whether the act is a felony or misdemeanor or not.

9 ...

10 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
11 of a licensee under this chapter.

12 ...

13 REGULATORY PROVISIONS
14

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

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

23 FACTUAL SUMMARY
24

25 8. On or about October 21, 2013, in a criminal proceeding entitled *The People of the*
26 *State of California v. Carolyn Sharane Powell*, in Solano Superior Court, Case Number
27 VCR217960, Respondent was convicted on her no contendere plea of violating Penal Code (PC)
28 section 459, a misdemeanor, for second degree burglary.

29 9. As a result of the conviction, on October 21, 2013, Respondent was sentenced to
30 serve ten days in custody, placed on a three-year probation term, ordered to attend and complete
31 eight hours of theft class counseling, and pay \$559.00 in fines, fees, and restitution. Respondent

1 was ordered to stay away from Marshalls in Vallejo, California. The facts underlying the
2 conviction are that on or about May 5, 2013, Respondent was employed at Marshalls in Vallejo,
3 California. Respondent cooperated with a customer in stealing merchandise from the store. At the
4 time of her arrest, Respondent admitted to having engaged in this misconduct on numerous other
5 occasions. On or about December 2, 2015, Respondent's Petition for Dismissal under PC section
6 1203.4 was granted.

7 10. Contrary to Respondent's admissions to the Vallejo Police Department, in her
8 application to the Board, Respondent denied any involvement with the customer's theft activity.

9 11. On or about January 26, 2017, Respondent violated PC section 470, subdivision (a), a
10 felony, for altering a governmental agency identification card. The facts underlying the arrest are
11 that on or about January 26, 2017, Respondent was inside a library making copies, cutting paper,
12 and using whiteout on a social security card. Respondent informed the investigating deputy that
13 she was issued two social security numbers but did not have the card for the second social security
14 number. Respondent needed to submit a copy of the second social security card for a car loan
15 because her first social security number was associated with bad credit. Respondent cut one social
16 security number and pasted it over another social security card that she had in her possession.

17 **FIRST CAUSE FOR DENIAL OF APPLICATION**

18 **(Criminal Conviction for Second Degree Burglary)**

19 12. Respondent's application for a Pharmacy Technician License is subject to denial under
20 Code section 480, subdivisions (a)(1), and under Code sections 480, subdivision (a)(3)(A) and
21 4301, subdivision (l), in that Respondent was convicted of a crime substantially related to the
22 qualifications, duties, and functions of a registered pharmacy technician, as described in paragraphs
23 8-9, above.

24 **SECOND CAUSE FOR DENIAL OF APPLICATION**

25 **(Commission of Acts Involving Dishonesty, Fraud, or Deceit)**

26 13. Respondent's application for a Pharmacy Technician License is subject to denial under
27 Code section 480, subdivision (a)(2), and under Code sections 480, subdivision (a)(3)(A) and
28 4301, subdivision (f), in that Respondent committed numerous acts which involve dishonesty,

1 fraud, or deceit. Respondent was dishonest, fraudulent, or deceitful when she committed second-
2 degree burglary on numerous occasions, as described in paragraphs 8-10, above.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Knowingly Making a False Statement of Fact to the Board)**

5 14. Respondent's application for Pharmacy Technician License is subject to denial under
6 Code section 480, subdivision (d), in that Respondent knowingly made a false statement of fact in
7 her application to the Board, as described in paragraph 10, above.

8 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

9 **(Commission of Acts Involving Dishonesty, Fraud, or Deceit)**

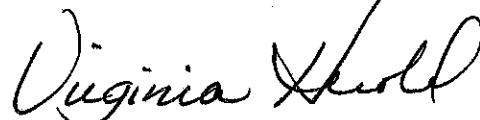
10 15. Respondent's application for a Pharmacy Technician License is subject to denial under
11 Code section 480, subdivision (a)(2), and under Code sections 480, subdivision (a)(3)(A) and
12 4301, subdivision (f), in that Respondent committed an act which involving dishonesty, fraud, or
13 deceit, as described in paragraph 11, above.

14 **PRAYER**

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

- 17 1. Denying the application of Carolyn Sharane Powell for a Pharmacy Technician
18 License;
- 19 2. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 8/29/17



22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 *Complainant*

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