

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

KAREEN D. AQUINO
aka KAREN AQUINO DE AUSEN

Pharmacy Technician Registration No. TCH
58457

Respondent.

Case No. 4722

OAH No. 2015060409

ORDER DENYING RECONSIDERATION

The Board of Pharmacy having read and considered respondent's petition for reconsideration of the board's decision effective January 29, 2016 is denied. NOW THEREFORE IT IS ORDERED that the petition for reconsideration is denied. The Board of Pharmacy's Decision and Order effective January 29, 2016 is the Board of Pharmacy's final decision in this matter.

Date: February 1, 2016

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

**BEFORE THE
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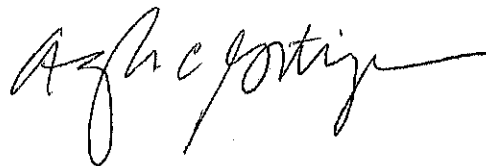
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on January 29, 2016.

It is so ORDERED on December 30, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KAREEN D. AQUINO aka KAREN
AQUINO DE AUSEN

Pharmacy Technician Registration No. TCH
58457

Respondent.

Case No. 4722

OAH No. 2015060409

CORRECTED PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, on September 17, 2015, in Los Angeles, California.

Deputy Attorney General Matthew A. King represented complainant.

Kareen D. Aquino, also known as Karen Aquino De Ausen, (respondent) appeared at the hearing and represented herself.

Evidence was received and the matter was submitted for decision on September 17, 2015. The Administrative Law judge issued a proposed decision on October 15, 2015.

By letter dated November 10, 2015, Laura Freedman, Legal Counsel, California Board of Pharmacy, noted errors in the proposed decision and requested correction of the proposed decision pursuant to California Code of Regulations, title 1, section 1048. The letter, which has been marked as Exhibit 7 and made part of the record, notes the following errors in the proposed decision:

On page 3, in Legal Conclusion 6, the ALJ concludes that grounds exist to order respondent to pay the board costs of investigation and prosecution in the amount of \$4,177.50. Although the ALJ reached that legal conclusion, the Order itself lacks the corresponding term.

In addition, on page 2, in Factual Finding 3, the reference to an "LVN" should be "pharmacy technician."

Respondent was served with the Request for Modification of Proposed Decision on November 10, 2015, and did not file a written opposition within 10 days of being served.

The request to correct the above noted errors in the proposed decision is granted. The reference to "LVN" in Factual Finding 3 is a clerical error. The ALJ's omission to order respondent to pay the costs of investigation and enforcement was an oversight in that, in addition to making the legal conclusion referenced above, the ALJ made a factual finding that the request for costs was reasonable under Business and Profession Code section 125.3.

Good cause appearing,

The second sentence of Factual Finding 3 is changed to read: "Both offenses are misdemeanors that are substantially related to the duties, functions and qualifications of a pharmacy technician."

The Order is hereby changed to read as follows:

1. Pharmacy Technician Registration No. TCH 58457 issued to respondent Karen D. Aquino, also known as Karen Aquino De Ausen, is revoked.
2. Respondent Karen D. Aquino, also known as Karen Aquino De Ausen, is ordered to pay \$4,177.50 to the Board of Pharmacy for its costs of investigation and enforcement.

FACTUAL FINDINGS

1. Virginia Herold made and filed the Accusation in her official capacity as Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.
2. On September 10, 2004, the Board issued Pharmacy Technician Registration No. TCH 58457 to respondent. Said license is in full force and effect with an expiration date of January 31, 2016.
3. On January 4, 2013, in the Superior Court of California, County of Los Angeles (Case No. 2WA23576), respondent entered a plea of no contest and was convicted of one count of forgery (Penal Code section 470, subdivision (d)), and one count of grand theft (Penal Code section 484g). Both offenses are misdemeanors that are substantially related to the duties, functions and qualifications of a pharmacy technician. Imposition of sentence was suspended and respondent was placed on summary probation for 24 months on

certain terms and conditions, including, that she serve 30 days in the county jail, perform 30 days of community labor, and pay fines and fees totaling \$190.

4. The facts and circumstances underlying the conviction were that respondent found a wallet that belonged to a co-worker in the lunch room of St John's Hospital. The wallet contained a driver's license and several credit cards. Respondent knew the owner of the wallet but made no attempt to return the wallet to the owner. Respondent used the credit cards to make purchases for herself and allowed her brother and his friend to also make purchases with the stolen credit cards. On May 17, 2012, respondent, her brother and his friend used the cards to purchase gasoline, two Apple iPads, a Nintendo game system and pet supplies. They fraudulently charged a total of \$1,804.44 that day. Respondent purchased one of the iPads by forging her co-worker's signature.

5. Respondent admitted that she took the wallet with the intent to use the credit cards. She testified that her husband had lost his job which caused financial difficulties for the family. Respondent stated she is sorry for what she did and would never steal again.

6. Karla Perreira, Doctor of Pharmacology, testified as an expert witness for complainant. Dr. Perreira stated that pharmacy technicians have access to all drugs including controlled substances. In addition, pharmacy technicians have access to personal information of patients, including addresses, social security numbers, and credit card information. Dr. Perreira testified that trustworthiness is an essential attribute of a pharmacy technician.

7. Respondent currently works as a pharmacy technician for Ivy League Pharmacy. In addition, respondent has been taking classes at her local community college.

8. Complainant submitted certification of costs of enforcement totaling \$4,177.50. The requested costs are reasonable under Business and Professions Code section 125.3.

LEGAL CONCLUSIONS

1. Grounds exist to suspend or revoke respondent's pharmacy technician registration pursuant to Business and Professions Code sections 490, 4300 and 4301, subdivision (l), and California Code of Regulations, title 16, section 1770, based on respondent's convictions that are substantially related to the duties, functions and qualifications, as set forth in Factual Finding 3.

2. Grounds exist to suspend or revoke respondent's pharmacy technician's license for unprofessional conduct pursuant to Business and Professions Code sections 4301, subdivision (f), based on respondent's dishonest and fraudulent conduct as set forth in factual Finding 4.

3. Grounds exist to suspend or revoke respondent's pharmacy technician's license for unprofessional conduct pursuant to Business and Professions Code sections 4301, subdivision (g), based on respondent's conduct of forging a signature on a credit card authorization slip, as set forth in factual Finding 4.

4. Grounds exist to suspend or revoke respondent's pharmacy technician's license pursuant to Business and Professions Code sections 4301, subdivision (o), for engaging in acts of unprofessional conduct, as set forth in Factual Finding 4.

5. Grounds exist to suspend or revoke respondent's pharmacy technician's license pursuant to Business and Professions Code sections 4301, subdivision (p), for engaging in acts that would warrant denial of a licensure, as set forth in Factual Finding 4.

6. Grounds exist to order respondent to pay the Board \$4,177.50 under Business and Professions Code section 125.3, for reasonable costs of investigation and prosecution of this matter, based on Factual Finding 7.

7. The Board has the responsibility to protect the public. In discharging this responsibility, the Board has promulgated guidelines which set forth factors to be considered in determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case as follows:

(1) Actual or potential harm to the public – Respondent's conduct of theft and forgery was harmful to the public in a general sense.

(2) Actual or potential harm to any consumer – Respondent's conduct was harmful to the rightful owner of the credit cards and to the commercial establishments where respondent made the credit card purchases.

(3) Prior disciplinary record, including level of compliance with disciplinary order(s) – Respondent has no prior disciplinary record.

(4) Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s) – Respondent has not been the subject of prior warnings.

(5) Number and/or variety of current violations – Respondent has no other convictions and there was no evidence of other violations.

(6) *Nature and severity of the act(s), offense(s) or crime(s) under consideration* – Respondent committed crimes of dishonesty.

(7) *Aggravating evidence* – Respondent's theft of credit cards was compounded by the fact that she forged the victim's signature to make one of the purchases, and allowed her brother and his friend to also make purchases with the stolen credit cards.

(8) *Mitigating evidence* – There was no mitigating evidence in this case.

(9) *Rehabilitation evidence* – Respondent presented some evidence of rehabilitation in that she has taken classes at a community college.

(10) *Compliance with terms of any criminal sentence, parole, or probation* – Respondent has completed her criminal probation.

(11) *Overall criminal record* – Respondent has no other convictions.

(12) *If applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code* – Respondent's convictions have not been expunged.

(13) *Time passed since the act(s) or offense(s)* – Respondent committed the offenses almost three years ago.

(14) *Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct* – Respondent's theft and forgery offenses were intentional acts.

(15) *Financial benefit to the respondent from the misconduct* – Respondent received a financial benefit from her misconduct in that she purchased goods and services with the credit cards found.

8. In its guidelines, the Board has established four categories of misconduct. Each category has a range of recommended discipline. A category I violation is a relatively minor offense with a minimum penalty of one year probation. A category IV violation is considered the most serious offense, which should result in revocation of a license. Respondent's misconduct is considered a category II offense because it involved a criminal conviction not involving dangerous drugs or controlled substances and presented a potential

for harm to the public at large. Under the guidelines, criminal convictions are considered Category III offenses if they involve dangerous drugs or controlled substances, or if a licensee willfully violates laws pertaining to dispensing or distributing of dangerous drugs or controlled substances. In cases where revocation is not imposed, the agency guidelines recommend a minimum Category III level of discipline.

9. In consideration of all of the facts and circumstances of this case, revocation is the appropriate discipline. Respondent had numerous opportunities to do the right thing but chose not to do so. She decided to take and keep the lost wallet rather than return it to the victim. In purchasing one of the items, she forged the victim's signature. Finally, she allowed others to use the stolen credit cards to make purchases.

ORDER

1. Pharmacy Technician Registration No. TCH 58457 issued to respondent Kareen D. Aquino, also known as Karen Aquino De Ausen, is revoked.

2. Respondent Kareen D. Aquino, also known as Karen Aquino De Ausen, is hereby ordered to pay \$4,177.50 to the Board of Pharmacy for its costs of investigation and enforcement.

DATED: December 3, 2015



HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

KAREEN D. AQUINO aka KAREN
AQUINO DE AUSEN

Pharmacy Technician Registration No. TCH
58457

Respondent.

Case No. 4722

OAH No. 2015060409

PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, on September 17, 2015, in Los Angeles, California.

Deputy Attorney General Matthew A. King represented complainant.

Kareen D. Aquino, also known as Karen Aquino De Ausen, (respondent) appeared at the hearing and represented herself.

Evidence was received and the matter was submitted for decision on September 17, 2015.

FACTUAL FINDINGS

1. Virginia Herold made and filed the Accusation in her official capacity as Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

2. On September 10, 2004, the Board issued Pharmacy Technician Registration No. TCH 58457 to respondent. Said license is in full force and effect with an expiration date of January 31, 2016.

3. On January 4, 2013, in the Superior Court of California, County of Los Angeles (Case No. 2WA23576), respondent entered a plea of no contest and was convicted

of one count of forgery (Penal Code section 470, subdivision (d)), and one count of grand theft (Penal Code section 484g). Both offenses are misdemeanors that are substantially related to the duties, functions and qualifications of an LVN. Imposition of sentence was suspended and respondent was placed on summary probation for 24 months on certain terms and conditions, including, that she serve 30 days in the county jail, perform 30 days of community labor, and pay fines and fees totaling \$190.

4. The facts and circumstances underlying the conviction were that respondent found a wallet that belonged to a co-worker in the lunch room of St John's Hospital. The wallet contained a driver's license and several credit cards. Respondent knew the owner of the wallet but made no attempt to return the wallet to the owner. Respondent used the credit cards to make purchases for herself and allowed her brother and his friend to also make purchases with the stolen credit cards. On May 17, 2012, respondent, her brother and his friend used the cards to purchase gasoline, two Apple iPads, a Nintendo game system and pet supplies. They fraudulently charged a total of \$1,804.44 that day. Respondent purchased one of the iPads by forging her co-worker's signature.

5. Respondent admitted that she took the wallet with the intent to use the credit cards. She testified that her husband had lost his job which caused financial difficulties for the family. Respondent stated she is sorry for what she did and would never steal again.

6. Karla Perreira, Doctor of Pharmacology, testified as an expert witness for complainant. Dr. Perreira stated that pharmacy technicians have access to all drugs including controlled substances. In addition, pharmacy technicians have access to personal information of patients, including addresses, social security numbers, and credit card information. Dr. Perreira testified that trustworthiness is an essential attribute of a pharmacy technician.

7. Respondent currently works as a pharmacy technician for Ivy League Pharmacy. In addition, respondent has been taking classes at her local community college.

8. Complainant submitted certification of costs of enforcement totaling \$4,177.50. The requested costs are reasonable under Business and Professions Code section 125.3.

LEGAL CONCLUSIONS

1. Grounds exist to suspend or revoke respondent's pharmacy technician registration pursuant to Business and Professions Code sections 490, 4300 and 4301, subdivision (1), and California Code of Regulations, title 16, section 1770, based on respondent's convictions that are substantially related to the duties, functions and qualifications, as set forth in Factual Finding 3.

2. Grounds exist to suspend or revoke respondent's pharmacy technician's license for unprofessional conduct pursuant to Business and Professions Code sections 4301, subdivision (f), based on respondent's dishonest and fraudulent conduct as set forth in factual Finding 4.

3. Grounds exist to suspend or revoke respondent's pharmacy technician's license for unprofessional conduct pursuant to Business and Professions Code sections 4301, subdivision (g), based on respondent's conduct of forging a signature on a credit card authorization slip, as set forth in factual Finding 4.

4. Grounds exist to suspend or revoke respondent's pharmacy technician's license pursuant to Business and Professions Code sections 4301, subdivision (o), for engaging in acts of unprofessional conduct, as set forth in Factual Finding 4.

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6. Grounds exist to order respondent to pay the Board \$4,177.50 under Business and Professions Code section 125.3, for reasonable costs of investigation and prosecution of this matter, based on Factual Finding 7.

7. The Board has the responsibility to protect the public. In discharging this responsibility, the Board has promulgated guidelines which set forth factors to be considered in determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case as follows:

(1) Actual or potential harm to the public – Respondent's conduct of theft and forgery was harmful to the public in a general sense.

(2) Actual or potential harm to any consumer – Respondent's conduct was harmful to the rightful owner of the credit cards and to the commercial establishments where respondent made the credit card purchases.

(3) Prior disciplinary record, including level of compliance with disciplinary order(s) – Respondent has no prior disciplinary record.

(4) Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s) – Respondent has not been the subject of prior warnings.

(5) *Number and/or variety of current violations* – Respondent has no other convictions and there was no evidence of other violations.

(6) *Nature and severity of the act(s), offense(s) or crime(s) under consideration* – Respondent committed crimes of dishonesty.

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(8) *Mitigating evidence* – There was no mitigating evidence in this case.

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(10) *Compliance with terms of any criminal sentence, parole, or probation* – Respondent has completed her criminal probation.

(11) *Overall criminal record* – Respondent has no other convictions.

(12) *If applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code* – Respondent's convictions have not been expunged.

(13) *Time passed since the act(s) or offense(s)* – Respondent committed the offenses almost three years ago.

(14) *Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct* – Respondent's theft and forgery offenses were intentional acts.

(15) *Financial benefit to the respondent from the misconduct* – Respondent received a financial benefit from her misconduct in that she purchased goods and services with the credit cards found.

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8. In its guidelines, the Board has established four categories of misconduct. Each category has a range of recommended discipline. A category I violation is a relatively minor offense with a minimum penalty of one year probation. A category IV violation is considered the most serious offense, which should result in revocation of a license. Respondent's misconduct is considered a category II offense because it involved a criminal conviction not involving dangerous drugs or controlled substances and presented a potential for harm to the public at large. Under the guidelines, criminal convictions are considered Category III offenses if they involve dangerous drugs or controlled substances, or if a licensee willfully violates laws pertaining to dispensing or distributing of dangerous drugs or controlled substances. In cases where revocation is not imposed, the agency guidelines recommend a minimum Category III level of discipline.

9. In consideration of all of the facts and circumstances of this case, revocation is the appropriate discipline. Respondent had numerous opportunities to do the right thing but chose not to do so. She decided to take and keep the lost wallet rather than return it to the victim. In purchasing one of the items, she forged the victim's signature. Finally, she allowed others to use the stolen credit cards to make purchases.

ORDER

Pharmacy Technician Registration No. TCH 58457 issued to respondent Karen D. Aquino, also known as Karen Aquino De Ausen, is revoked.

DATED: October 15, 2015


HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

1 KAMALA D. HARRIS
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 4722

13 **KAREEN D. AQUINO,**
14 **a.k.a. KAREN AQUINO DE AUSEN**
15 14222 Filmore Street
Arleta, CA 91331

ACCUSATION
(Gov. Code, § 11503.)

16 **Pharmacy Technician Registration No. TCH**
17 **58457**

Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Virginia K. Herold ("Complainant") brings this Accusation solely in her official
21 capacity as the Executive Officer of the California State Board of Pharmacy ("Board"), an agency
22 within the Department of Consumer Affairs.

23 2. On September 10, 2004, the Board issued Pharmacy Technician Registration Number
24 TCH 58457 to Kareen D. Aquino, also known as Karen Aquino De Ausen ("Respondent"). The
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on January 31, 2014, unless it is renewed.

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28 ///

1 **JURISDICTION**

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

5 4. Section 4300 of the Code states, in relevant part, that every license may be suspended
6 or revoked.

7 5. Section 4300.1 of the Code states:

8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a license
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 6. Section 490 of the Code states, in relevant part:

15 "(a) In addition to any other action that a board is permitted to take against a licensee, a
16 board may suspend or revoke a license on the ground that the licensee has been convicted of a
17 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
18 or profession for which the license was issued.

19 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
20 discipline a licensee for conviction of a crime that is independent of the authority granted under
21 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
22 of the business or profession for which the licensee's license was issued.

23 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
24 conviction following a plea of nolo contendere. Any action that a board is permitted to take
25 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
26 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
27 made suspending the imposition of sentence, irrespective of a subsequent order under the
28 provisions of Section 1203.4 of the Penal Code..."

1 7. Section 493 of the Code states:

2 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or revoke a
4 license or otherwise take disciplinary action against a person who holds a license, upon the
5 ground that the applicant or the licensee has been convicted of a crime substantially related to the
6 qualifications, functions, and duties of the licensee in question, the record of conviction of the
7 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
8 and the board may inquire into the circumstances surrounding the commission of the crime in
9 order to fix the degree of discipline or to determine if the conviction is substantially related to the
10 qualifications, functions, and duties of the licensee in question.

11 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
12 'registration.'"

13 8. Section 4301 of the Code states, in relevant part:

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

17 ...

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

21 "(g) Knowingly making or signing any certificate or other document that falsely represents
22 the existence or nonexistence of a state of facts.

23 ...

24 "(l) The conviction of a crime substantially related to the qualifications, functions, and
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
27 substances or of a violation of the statutes of this state regulating controlled substances or
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

1 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
2 The board may inquire into the circumstances surrounding the commission of the crime, in order
3 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
4 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
5 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
6 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
7 of this provision. The board may take action when the time for appeal has elapsed, or the
8 judgment of conviction has been affirmed on appeal or when an order granting probation is made
9 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
10 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
11 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
12 indictment.

13 . . .

14 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
15 violation of or conspiring to violate any provision or term of this chapter or of the applicable
16 federal and state laws and regulations governing pharmacy, including regulations established by
17 the board or by any other state or federal regulatory agency.

18 "(p) Actions or conduct that would have warranted denial of a license."

19 REGULATORY PROVISIONS

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

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

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28 ///

1 **COST RECOVERY**

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Conviction of a Substantially Related Crime)**

8 11. Respondent is subject to disciplinary action under Code section 490 and section 4301,
9 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1700, for
10 unprofessional conduct in that Respondent was convicted of a crime that is substantially related to
11 the qualifications, functions and duties of a pharmacy technician, as more particularly set forth
12 below.

13 a. On January 4, 2013, Respondent pleaded no contest to and was convicted of one
14 misdemeanor count of forgery (Pen. Code, § 470, subd. (d)) and one misdemeanor count of grand
15 theft (Pen. Code, § 484g). The Court sentenced her to thirty days in jail. It placed her on
16 summary probation for two years and ordered her to pay \$190 in fines and restitution and
17 complete thirty days of community service. (*People v. Karen Aquino De Ausen* (Super. Ct. L.A.
18 County, 2013, No. 2WA23576.) The circumstances of the conviction are set forth in
19 subparagraph (b), *infra*.

20 b. On or about May 17, 2012, Respondent found a wallet in the lunch room of St. John's
21 Hospital. The wallet contained a driver's license and several credit cards. Respondent knew the
22 items belonged to her coworker, a pharmacist, but she made no attempt to return them. Instead,
23 she used the cards to buy items for herself and others. On May 17, 2012, Respondent
24 fraudulently charged \$1,804.44 for gasoline, two Apple iPads, a Nintendo game system and pet
25 supplies. At a Target store in Northridge, Respondent purchased one of the iPads by forging her
26 coworker's signature. Respondent admitted to police that she kept the wallet because she had no
27 money and her bank account was overdrawn. She confessed to making the unauthorized
28 purchases and explained, "[i]t was greediness and I wasn't thinking right."

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SECOND CAUSE FOR DISCIPLINE

(Commission of an Act of Deceit or Fraud)

12. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), for unprofessional conduct in that Respondent committed an act involving dishonesty, fraud and deceit. Complainant realleges paragraph 11.

THIRD CAUSE FOR DISCIPLINE

(Making False Representations)

13. Respondent is subject to disciplinary action under Code section 4301, subdivision (g), for knowingly making or signing a certificate or other document that falsely represents the existence or nonexistence of a state of facts. On or about May 17, 2012, Respondent forged the signature and name of her coworker on a credit card authorization slip. Complainant realleges paragraph 11.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Pharmacy Law)

14. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), for violating provisions of the Pharmacy Law. Complainant realleges paragraphs 11 through 13.

FIFTH CAUSE FOR DISCIPLINE

(Commission of Acts That Would Have Warranted Denial of Licensure)

15. Respondent is subject to disciplinary action under Code section 4301, subdivision (p), for committing acts that would warrant denial of licensure. Complainant realleges paragraphs 11 through 14.

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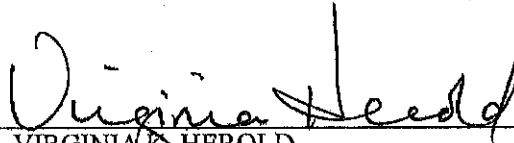
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 58457, issued to Kareen D. Aquino, also known as Karen Aquino De Ausen.;
2. Ordering Kareen D. Aquino, also known as Karen Aquino De Ausen, to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED:

9/19/13



VIRGINIA K. HEROLD
Executive Officer
California State Board of Pharmacy
State of California
Complainant

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