

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

In the Matter of the Statement of Issues Against:

LENA ESPINOZA

Pharmacy Technician Registration Applicant

Respondent.

Case No. 5804

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on September 7, 2017.

It is so ORDERED on August 8, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

11
12 In the Matter of the Statement of Issues
Against:
13 LENA LENEZ ESPINOZA
14
15 Pharmacy Technician Registration Applicant
16
17 Respondent.

Case No. 5804

OAH No. 2017030664

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
22 be submitted to the Board for approval and adoption as the final disposition of the Statement of
23 Issues.

24 PARTIES

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
26 (Board). She brought this action solely in her official capacity and is represented in this matter by
27 Xavier Becerra, Attorney General of the State of California, by Ron Espinoza, Deputy Attorney
28 General.

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Statement of
3 Issues No. 5804.

4 10. Respondent agrees that her Pharmacy Technician Registration application is subject
5 to denial and she agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 RESERVATION

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
10 licensing agency is involved, and shall not be admissible in any other criminal or civil
11 proceeding.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
14 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
15 communicate directly with the Board regarding this stipulation and settlement, without notice to
16 or participation by Respondent or her counsel. By signing the stipulation, Respondent
17 understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation
18 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
19 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
21 and the Board shall not be disqualified from further action by having considered this matter.

22 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that upon satisfaction of all statutory and regulatory
8 requirements for issuance of the license, a Pharmacy Technician Registration shall be issued to
9 Respondent Lena Lenee Espinoza and immediately revoked; the order of revocation will be
10 stayed and Respondent placed on probation for three (3) years upon the following terms and
11 conditions:

12 **1. Certification Prior to Resuming Work**

13 Respondent shall be automatically suspended from working as a pharmacy technician until
14 she is certified as defined by Business and Professions Code section 4202(a)(4), and provides
15 satisfactory proof of certification to the board. Respondent shall not resume working as a
16 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
17 year shall be considered a violation of probation. Respondent shall not resume working as a
18 pharmacy technician until notified by the board.

19 During suspension, respondent shall not enter any pharmacy area or any portion of any
20 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
21 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
22 devices or controlled substances are maintained. Respondent shall not do any act involving drug
23 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
24 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
25 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
26 substances. Respondent shall not resume work until notified by the board.

27 Failure to comply with this suspension shall be considered a violation of probation.

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1 **2. Obey All Laws**

2 Respondent shall obey all state and federal laws and regulations.

3 Respondent shall report any of the following occurrences to the board, in writing, within
4 seventy-two (72) hours of such occurrence:

- 5 an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws
- 8 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
9 criminal complaint, information or indictment
- 10 a conviction of any crime
- 11 discipline, citation, or other administrative action filed by any state or federal agency
12 which involves respondent's pharmacy technician registration or which is related to
13 the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
14 billing, or charging for any drug, device or controlled substance.

15 Failure to timely report any such occurrence shall be considered a violation of probation.

16 **3. Report to the Board**

17 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
18 designee. The report shall be made either in person or in writing, as directed. Among other
19 requirements, respondent shall state in each report under penalty of perjury whether there has
20 been compliance with all the terms and conditions of probation. Failure to submit timely reports
21 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
22 in submission of reports as directed may be added to the total period of probation. Moreover, if
23 the final probation report is not made as directed, probation shall be automatically extended until
24 such time as the final report is made and accepted by the board.

25 **4. Interview with the Board**

26 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
27 with the board or its designee, at such intervals and locations as are determined by the board or its
28 designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
2 the period of probation, shall be considered a violation of probation.

3 **5. Cooperate with Board Staff**

4 Respondent shall cooperate with the board's inspection program and with the board's
5 monitoring and investigation of respondent's compliance with the terms and conditions of her
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **6. Notice to Employers**

8 During the period of probation, respondent shall notify all present and prospective
9 employers of the decision in Statement of Issues case number 5804, and the terms, conditions and
10 restrictions imposed on respondent by the decision, as follows:

11 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
12 respondent undertaking any new employment, respondent shall cause her direct supervisor,
13 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
14 tenure of employment) and owner to report to the board in writing acknowledging that the listed
15 individual(s) has/have read the decision in Statement of Issues case number 5804 and the terms
16 and conditions imposed thereby. It shall be respondent's responsibility to ensure that her
17 employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

18 If respondent works for or is employed by or through a pharmacy employment service,
19 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
20 of the terms and conditions of the decision in Statement of Issues case number 5804 in advance of
21 the respondent commencing work at each pharmacy. A record of this notification must be
22 provided to the board upon request.

23 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
24 (15) days of respondent undertaking any new employment by or through a pharmacy employment
25 service, respondent shall cause her direct supervisor with the pharmacy employment service to
26 report to the board in writing acknowledging that she has read the decision in Statement of Issues
27 case number 5804 and the terms and conditions imposed thereby. It shall be respondent's
28 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely

1 acknowledgment(s) to the board.

2 Failure to timely notify present or prospective employer(s) or to cause that/those
3 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
4 probation.

5 "Employment" within the meaning of this provision shall include any full-time,
6 part-time, temporary or relief service or pharmacy management service as a pharmacy
7 technician or in any position for which a pharmacy technician license is a requirement
8 or criterion for employment, whether the respondent is considered an employee,
9 independent contractor or volunteer.

10 **7. Probation Monitoring Costs**

11 Respondent shall pay any costs associated with probation monitoring as determined by the
12 board each and every year of probation. Such costs shall be payable to the board on a schedule as
13 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
14 be considered a violation of probation.

15 **8. Status of License**

16 Respondent shall, at all times while on probation, maintain an active, current pharmacy
17 technician registration with the board, including any period during which suspension or probation
18 is tolled. Failure to maintain an active, current license shall be considered a violation of
19 probation.

20 If respondent's pharmacy technician registration expires or is cancelled by operation of law
21 or otherwise at any time during the period of probation, including any extensions thereof due to
22 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
23 terms and conditions of this probation not previously satisfied.

24 **9. License Surrender While on Probation/Suspension**

25 Following the effective date of this decision, should respondent cease work due to
26 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
27 respondent may tender her pharmacy technician registration to the board for surrender. The board
28 or its designee shall have the discretion whether to grant the request for surrender or take any

1 other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
2 license, respondent will no longer be subject to the terms and conditions of probation. This
3 surrender constitutes a record of discipline and shall become a part of the respondent's license
4 history with the board.

5 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
6 registration to the board within ten (10) days of notification by the board that the surrender is
7 accepted. Respondent may not reapply for any license, permit, or registration from the board for
8 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
9 applicable to the license sought as of the date the application for that license is submitted to the
10 board.

11 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
12 **Employment**

13 Respondent shall notify the board in writing within ten (10) days of any change of
14 employment. Said notification shall include the reasons for leaving, the address of the new
15 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
16 shall further notify the board in writing within ten (10) days of a change in name, residence
17 address and mailing address, or phone number.

18 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
19 phone number(s) shall be considered a violation of probation.

20 **11. Tolling of Probation**

21 Except during periods of suspension, respondent shall, at all times while on probation, be
22 employed as a pharmacy technician in California for a minimum of 10 hours per calendar month.
23 Any month during which this minimum is not met shall toll the period of probation, i.e., the
24 period of probation shall be extended by one month for each month during which this minimum is
25 not met. During any such period of tolling of probation, respondent must nonetheless comply
26 with all terms and conditions of probation.

27 Should respondent, regardless of residency, for any reason (including vacation) cease
28 working as a pharmacy technician for a minimum of 10 hours per calendar month in California,

1 respondent must notify the board in writing within ten (10) days of cessation of work and must
2 further notify the board in writing within ten (10) days of the resumption of the work. Any failure
3 to provide such notification(s) shall be considered a violation of probation.

4 It is a violation of probation for respondent's probation to remain tolled pursuant to the
5 provisions of this condition for a total period, counting consecutive and non-consecutive months,
6 exceeding thirty-six (36) months.

7 "Cessation of work" means calendar month during which respondent is not
8 working for at least 10 hours as a pharmacy technician, as defined in Business and
9 Professions Code section 4115. "Resumption of work" means any calendar month
10 during which respondent is working as a pharmacy technician for at least 10 hours as
11 a pharmacy technician as defined by Business and Professions Code section 4115.

12 **12. Violation of Probation**

13 If a respondent has not complied with any term or condition of probation, the board shall
14 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
15 all terms and conditions have been satisfied or the board has taken other action as deemed
16 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
17 to impose the penalty that was stayed.

18 If respondent violates probation in any respect, the board, after giving respondent notice
19 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
20 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
21 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
22 a petition to revoke probation or an accusation is filed against respondent during probation, the
23 board shall have continuing jurisdiction, and the period of probation shall be automatically
24 extended until the petition to revoke probation or accusation is heard and decided.

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13. Completion of Probation

Upon written notice by the board indicating successful completion of probation, respondent's pharmacy technician license will be fully restored.


14. No Ownership of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John Bishop, Esq. I understand the stipulation and the effect it will have on my application and Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 5-24-17


LENA LENEE ESPINOZA
Respondent

I have read and fully discussed with Respondent Lena Lence Espinoza the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5-24-17


JOHN BISHOP, ESQ.
Attorney for Respondent

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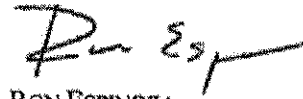
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated: 5/24/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



RON ESPINOZA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 5804

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Attorneys for Complainant
8

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

12 In the Matter of the Statement of Issues
Against:

Case No. 5804

STATEMENT OF ISSUES

13 **LENA LENE E ESPINOZA**

14 Pharmacy Technician Registration
15 Applicant

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

23 2. On May 11, 2015, the Board received an application for a Pharmacy Technician
24 Registration from Lena Lenee Espinoza (Respondent). On May 7, 2015, Lena Lenee Espinoza
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 January 22, 2016.

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JURISDICTION

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

4. Code section 4300, subdivision (c) states:

The board may refuse a license to any applicant guilty of unprofessional conduct.

STATUTORY PROVISIONS

5. Code section 475 states, in pertinent part:

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

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

(2) Conviction of a crime.

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

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

....

6. Code section 480 states, in pertinent part:

(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 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.

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7. Code section 482 states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under section 480; or
- (b) Considering suspension or revocation of a license under section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

8. Code section 493 states:

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

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

9. Code section 4060 states:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

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10. Code section 4301 states, in pertinent 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:

...

(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.

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

...

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

...

(i) 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.

...

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

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1 **REGULATORY PROVISIONS**

2 11. California Code of Regulations, title 16, section 1768 states:

3 (a) Where the board has denied an application for a license, the earliest
4 date on which the applicant may reapply for a license is one year after the
effective date of the denial.

5 (b) All competent evidence of rehabilitation presented will be considered
6 upon a reapplication. The board shall use the criteria listed in section 1769 when
considering evidence of rehabilitation.

7 12. California Code of Regulations, title 16, section 1769 states, in pertinent part:

8 (a) When considering the denial of a facility or personal license under
9 section 480 of the Business and Professions Code, the board, in evaluating the
10 rehabilitation of the applicant and his present eligibility for licensing or
11 registration, will consider the following criteria:

12 (1) The nature and severity of the act(s) or offense(s) under
13 consideration as grounds for denial.

14 (2) Evidence of any act(s) committed subsequent to the act(s) or
15 crime(s) under consideration as grounds for denial under section 480 of the
16 Business and Professions Code.

17 (3) The time that has elapsed since commission of the act(s) or
18 crime(s) referred to in subdivision (1) or (2).

19 (4) Whether the applicant has complied with any terms of parole,
20 probation, restitution or any other sanctions lawfully imposed against the
21 applicant.

22 (5) Evidence, if any, of rehabilitation submitted by the applicant.

23

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

25 For the purpose of denial, suspension, or revocation of a personal or
26 facility license pursuant to Division 1.5 (commencing with section 475) of the
27 Business and Professions Code, a crime or act shall be considered substantially
28 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.

DRUG

14. Vicodin is a brand name for acetaminophen and hydrocodone bitartrate, a
Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision
(c), and a dangerous drug under Business and Professions Code section 4022.

1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (September 18, 2006 Conviction for Driving without a License on September 11, 2005)

3 15. Respondent's application for a Pharmacy Technician Registration is subject to
4 denial under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in
5 that she was convicted of crimes that are substantially related to the qualifications, duties, and
6 functions of a registered pharmacy technician, which would also be a ground for discipline for a
7 registered pharmacy technician under Code section 4301, subdivision (l). The circumstances are
8 as follows:

9 a. On September 18, 2006, in a criminal proceeding entitled *The People of*
10 *the State of California vs. Lena Lenee Espinoza*, in Orange County Superior Court, North Justice
11 Center, Criminal Division Case Number BP143028, Respondent was convicted on her plea of
12 guilty of violating Vehicle Code (VC) sections 12500, subdivision (a), driving without a valid
13 driver's license, a misdemeanor, and 16028, subdivision (a), failure to provide evidence of
14 financial responsibility for the vehicle and 27150, subdivision (a), failure to maintain an
15 adequate muffler in constant operation, both infractions.

16 b. As a result of the convictions, on September 18, 2006, Respondent was
17 sentenced to one year informal probation under certain terms and conditions. Respondent was
18 ordered to pay fines, fees, assessments, and restitution. On June 4, 2008, Respondent was
19 convicted in Case Number 08NM06642, detailed in paragraph 16, below, and was found in
20 violation of the terms of her probation in Case Number BP143028. As a result of the violation,
21 Respondent was sentenced to 30 days in the Orange County Jail, which was stayed pending no
22 further probation violations. Respondent filed a Petition for Relief under PC sections 1203.4 and
23 1203.4a. On December 22, 2011, upon hearing Respondent's petition, Respondent's
24 misdemeanor conviction for violation of VC section 12500, subdivision (a), was set aside, and
25 the charge dismissed based on Respondent's fulfillment of the conditions of her probation during
26 the entire period of probation.

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1 c. The facts that led to the convictions are that on September 11, 2005, while
2 driving in the area of Orangethorpe Avenue and Stanton Avenue in Buena Park, California,
3 Respondent was stopped by an officer from the Buena Park Police Department for failure to
4 maintain an adequate muffler in constant operation. During the enforcement stop, Respondent
5 was found not in possession of a valid driver's license. Respondent also failed to provide evidence of
6 financial responsibility for the vehicle.

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

8 (June 4, 2008 Conviction for Possession of a Controlled Substance on April 26, 2008)

9 16. Respondent's application for a Pharmacy Technician Registration is subject to
10 denial under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in
11 that she was convicted of crimes that are substantially related to the qualifications, duties, and
12 functions of a registered pharmacy technician, which would also be a ground for discipline for a
13 registered pharmacy technician under Code section 4301, subdivision (l). The circumstances are
14 as follows:

15 a. On June 4, 2008, in a criminal proceeding entitled *The People of the State*
16 *of California vs. Lena Lenee Espinoza*, in Orange County Superior Court, North Justice Center,
17 Criminal Division Case Number 08NM06642, Respondent was convicted on her plea of guilty of
18 violating Code section 4060, possession of a controlled substance, without the prescription of a
19 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, a misdemeanor.

20 b. As a result of the conviction, on June 4, 2008, Respondent was sentenced
21 to three years informal probation under certain terms and conditions. Respondent was ordered to
22 pay fines, fees, restitution, and assessments. Respondent filed a Petition for Relief under PC
23 sections 1203.4 and 1203.4a. On December 22, 2011, upon hearing Respondent's petition,
24 Respondent's misdemeanor conviction for violation of Code section 4060 was set aside, and the
25 charge dismissed based on Respondent's fulfillment of the conditions of her probation during the
26 entire period of probation.

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1 c. The facts that led to the convictions are that on April 26, 2008,
2 Respondent drove a car with tinted windows at 50 miles per hour in a 35 miles per hour speed
3 zone of Ash Avenue in Fullerton, California. An officer from the Fullerton Police Department
4 initiated an enforcement stop. During a search incident to the enforcement stop, the officer found
5 in Respondent's purse a prescription bottle with nine Vicodin pills.

6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

7 **(Act If Done By Licentiate – Violation of Drug Regulation Laws)**

8 17. Respondent's application for a Pharmacy Technician Registration is subject to
9 denial under Code section 480, subdivision (a)(3)(A) in that on April 26, 2008, as detailed in
10 paragraph 17, above, she violated Code section 4060. Respondent possessed a controlled
11 substance, without the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
12 naturopathic doctor, a misdemeanor violating a statute of the State of California regulating
13 controlled substances and dangerous drugs, which would be a ground for discipline for a
14 registered pharmacy technician under Code section 4301, subdivision (j).

15 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

16 **(Act If Done By Licentiate – Violation of Pharmacy Laws)**

17 18. Respondent's application for a Pharmacy Technician Registration is subject to
18 denial under Code section 480, subdivision (a)(3)(A) in that on April 26, 2008, as detailed in
19 paragraph 17, above, she violated Code section 4060, a pharmacy law of the State of California
20 regulating controlled substances and dangerous drugs, which would be a ground for discipline
21 for a licensed pharmacy technician under Code section 4301, subdivision (o).

22 **MATTERS IN AGGRAVATION**

23 **FIRST MATTER IN AGGRAVATION**

24 **(Act If Done By Licentiate – Commission of Acts Involving Moral Turpitude, Dishonesty,**
25 **Fraud, Deceit, or Corruption)**

26 19. Respondent's application for a Pharmacy Technician Registration submitted on
27 July 21, 2009, was denied on August 12, 2010, under Code section 480, subdivisions (a)(2) and
28 (a)(3)(A) in that she committed acts that involve moral turpitude, dishonesty, fraud, deceit, and

1 corruption, which would be grounds for discipline for a registered pharmacy technician under
2 Code section 4301, subdivision (f). Respondent committed dishonesty when she submitted an
3 application for a Pharmacy Technician Registration on July 21, 2009, without disclosing her
4 prior convictions in 2006 and 2008, as described in paragraphs 16 and 17, above, which are
5 incorporated by reference.

6 **SECOND MATTER IN AGGRAVATION**

7 **(Act If Done By Licentiate - Knowingly Making or Signing Any Certificate or Other** 8 **Document That Falsely Represents the Existence or Nonexistence of a State of Facts)**

9 20. Respondent's application for a Pharmacy Technician Registration submitted on
10 July 21, 2009, was denied on August 12, 2010, under Code section 480, subdivisions (a)(2) and
11 (a)(3)(A) in that she knowingly and falsely represented the nonexistence of a state of facts in her
12 application. Respondent certified under penalty of perjury to the truthfulness of all statements,
13 answers, and representations in the application. However, Respondent failed to report her two
14 prior convictions in 2006 and 2008, as described in paragraphs 16 and 17, above, which are
15 incorporated by reference. Respondent's false representations would also be grounds for
16 discipline for a registered pharmacy technician under Code section 4301, subdivision (g).

17 **THIRD MATTER IN AGGRAVATION**

18 **(Act If Done By Licentiate - Commission of Acts Involving Moral Turpitude, Dishonesty,** 19 **Fraud, Deceit, or Corruption)**

20 21. Respondent's application for a Pharmacy Technician Registration submitted on
21 September 25, 2012, was denied on March 1, 2013, under Code section 480, subdivisions (a)(2)
22 and (a)(3)(A) in that she committed acts that involve moral turpitude, dishonesty, fraud, deceit,
23 and corruption, which would be grounds for discipline for a registered pharmacy technician
24 under Code section 4301, subdivision (f). Respondent committed dishonesty when she submitted
25 an application for a Pharmacy Technician Registration on September 25, 2012, without
26 disclosing her prior application denial on August 12, 2010, described in paragraphs 19 and 20,
27 above, and prior convictions in 2006 and 2008, as detailed in paragraphs 16 and 17, above,
28 which are incorporated by reference.

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FOURTH MATTER IN AGGRAVATION

(Act If Done By Licentiate - Knowingly Making or Signing Any Certificate or Other Document That Falsely Represents the Existence or Nonexistence of a State of Facts)

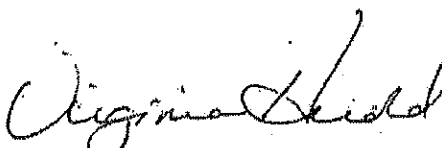
22. Respondent's application for a Pharmacy Technician Registration submitted on September 25, 2012, was denied on March 1, 2013, under Code section 480, subdivisions (a)(2) and (a)(3)(A) in that she knowingly and falsely represented the nonexistence of a state of facts in her application. Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. However, Respondent failed to report her prior application denial on August 12, 2010, described in paragraphs 19 and 20, above, and prior convictions in 2006 and 2008, as detailed in paragraphs 16 and 17, above, which are incorporated by reference. Respondent's false representations would also be grounds for discipline for a registered pharmacy technician under Code section 4301, subdivision (g).

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. Denying the application of Lena Lenee Espinoza for a Pharmacy Technician Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 6/10/16


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

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