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9	BEFORE THE
10	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
11	STATE OF CALIFORNIA
12	In the Matter of the Statement of Issues Against: Case No. 3371
13	YVONNE ANNE DIXSON
14	82-640 Miles Avenue #7 Indio, CA 92201
15	Respondent.
16	Complainant alleges:
17	PARTIES
18	1. Complainant Virginia Herold brings this Statement of Issues solely in her official
19	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20	2. On July 2, 2008, the Board received an Application for Registration as a
21	Pharmacy Technician from Respondent Yvonne Anne Dixson. On May 15, 2008, Respondent
22	certified under penalty of perjury to the truthfulness of all statements, answers, and
23	representations in the application. The Board denied the application on January 7, 2009. The
24	Board received Respondent's request for an administrative hearing on February 18, 2009.
25	JURISDICTION
26	3. This Statement of Issues is brought before the Board of Pharmacy, Department of
27	Consumer Affairs, under the authority of the following laws. All section references are to the
28	Business and Professions Code (Code) unless otherwise indicated.
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1	STATUTORY PROVISIONS
2	4. Section 480 states, in pertinent part:
3	(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
4	(1) Been convicted of a crime. A conviction within the meaning of
5	this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the
6	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
7	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.
8	(2) Done any act involving dishonesty, fraud or deceit with the
9	intent to substantially benefit himself or another, or substantially injure another; or
10	(3) Done any act which if done by a licentiate of the business or
11	profession in question, would be grounds for suspension or revocation of license.
12	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
13	the busihess or profession for which application is made.
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15	REGULATORY PROVISIONS
16	5. California Code of Regulations, title 16, section 1769, states:
17	(a) When considering the denial of a facility or personal license under
18	Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or
19	registration, will consider the following criteria:
20	(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.
21 22	(2) Evidence of any act(s) committed subsequent to the act(s) or
22	crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.
23	(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
25	(4) Whether the applicant has complied with any terms of parole,
26	probation, restitution or any other sanctions lawfully imposed against the applicant.
27	(5) Evidence, if any, of rehabilitation submitted by the applicant.
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California Code of Regulations, title 16, section 1770, states:

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

#### FIRST CAUSE FOR DENIAL OF APPLICATION

#### (October 16, 1995 Criminal Conviction for Theft)

8 7. Respondent's application is subject to denial under section 480, subdivision (a)(1)
9 of the Code in that she was convicted of a crime that is substantially related to the qualifications,
10 duties, and functions of a pharmacy technician. The circumstances are as follows:

a. On October 16, 1995, in a criminal proceeding entitled *The State of Arizona v. Yvonne Anne Dixson*, in Navajo County Superior Court, case number CR95000383,
 Respondent was convicted on her plea of guilty of violating Arizona Revised Statutes 13-1802,
 theft, passing bad checks, a Class 6 designated felony.

15 As a result of the conviction, on November 6, 1995, Respondent was b. 16 sentenced to 90 days in the Navajo County Jail; three years probation; payment of probation 17 service fees; and standard terms of probation. Respondent was further ordered to not use or 18 possess any marijuana, dangerous drugs, or narcotics except those prescribed by a physician; not to drink any intoxicating liquors; to submit to searches of her person and property by any 19 20 probation officer; and to perform 200 hours of community service. On January 3, January 18, 21 and January 31, 1996, Respondent tested positive for the presence of THC/Marijuana. On 22 February 6, 1996, Respondent's probation officer filed a petition to revoke probation and the 23 court issued an order for an arrest warrant. Due to Respondent's incarceration detailed in 24 paragraph 9, below, the warrant was quashed for lack of prosecution on September 17, 2002.

c. The facts that led to the conviction were that between November 8, 1994,
and December 4, 1994, Respondent knowingly defrauded two Winslow, Arizona grocery stores
out of currency and goods by passing 22 checks on a closed checking account.

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## SECOND CAUSE FOR DENIAL OF APPLICATION

## (Commission of Acts Involving Dishonesty, Fraud and Deceit)

8. Respondent's application is subject to denial under section 480 subdivision (a)(2)
 of the Code in that between November 8, 1994, and December 4, 1994, Respondent knowingly
 defrauded two Winslow, Arizona grocery stores out of currency and goods by passing 22 checks
 on a closed checking account, acts involving dishonesty, fraud and deceit with the intent to
 substantially benefit herself. Such acts are substantially related to the qualifications, duties, and
 functions of a pharmacy technician.

# THIRD CAUSE FOR DENIAL OF APPLICATION

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(August 23, 1999 Criminal Conviction for Voluntary Manslaughter)

9. Respondent's application is subject to denial under section 480, subdivision (a)(1)
 of the Code in that she was convicted of a crime that is substantially related to the qualifications,
 duties, and functions of a pharmacy technician. The circumstances are as follows:

a. On or about August 23, 1999, in a criminal proceeding entitled *United States of America v. Yvonne Anne Dixson*, in U.S. District Court, Arizona (Prescott Division),
case number 99CR00023, Respondent was convicted of violating 18 U.S.C. sections 1153 and
1112, subdivision (a), voluntary manslaughter committed on an Indian reservation, a felony.

b. As a result of the conviction, Respondent was sentenced to 51 months
incarceration in the Bureau of Prisons, followed by 36 months supervised release.

# <u>PRAYER</u>

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:

23 1. Denying the application of Yvonne Anne Dixson for a Pharmacy Technician
24 registration;

Taking such other and further action as deemed necessary and proper. 25 2. 26 DATED: 27

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

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