

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Senior Assistant Attorney General  
3 SHAWN P. COOK  
Supervising Deputy Attorney General  
4 State Bar No. 117851  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-9954  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues  
Against:

Case No. 3955

12 **ALFONSO LANDUZURI**  
13 7641 Emerald Avenue  
14 Fontana, CA 92336

**STATEMENT OF ISSUES**

15 Respondent.

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, Department of Consumer Affairs.  
20 2. On or about December 16, 2009, the Board of Pharmacy (Board) received an  
21 application for registration as a Pharmacy Technician from Alfonso Landuzuri (Respondent). On  
22 or about December 15, 2009, Respondent certified under penalty of perjury to the truthfulness of  
23 all statements, answers, and representations in the application. The Board denied the application  
24 on June 29, 2010.

25 **JURISDICTION**

- 26 3. This Statement of Issues is brought before the Board under the authority of the  
27 following laws. All section references are to the Business and Professions Code unless otherwise  
28 indicated.

STATUTORY PROVISIONS

4. 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.

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

....

"(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for the license."

5. Section 490 states, in pertinent part:

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

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
2 of the business or profession for which the licensee's license was issued.

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

9 6. Section 4300 provides in pertinent part, that every license issued by the Boards is  
10 subject to discipline, including suspension or revocation."

11 7. Section 4301 states, in pertinent part:

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

15 . . . .

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

19 . . . .

20 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
21 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
22 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
23 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
24 practice authorized by the license.

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

27 . . . .

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1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
2 licensee or registrant to perform the functions authorized by his license or registration in a manner  
3 consistent with the public health, safety, or welfare."

4 9. **CONTROLLED SUBSTANCE**

5 "Amphetamine," is a Schedule II controlled substance as designated by Health and Safety  
6 Code section 11055, subdivision (d)(1) and is categorized as a dangerous drug pursuant to  
7 section 4022.

8 **FIRST CAUSE FOR DENIAL OF APPLICATION**

9 **(Convictions of Crimes)**

10 10. Respondent's application is subject to denial under section 480, subdivision (a)(1), in  
11 that Respondent was convicted of crimes as follows:

12 a. On or about June 04, 2008, after pleading guilty, Respondent was convicted of one  
13 felony count of violating Penal Code section 475, subdivision (c) [forgery] in the criminal  
14 proceeding entitled *The State of California v. Alfonso Landazuri* (Super.Ct. San Bernardino  
15 County, 2008, No. FSB704053). The Court sentenced Respondent to serve 3 days in San  
16 Bernardino County jail and placed him on 36 months probation, with terms and conditions. The  
17 circumstances surrounding the conviction are that on or about July 3, 2007, Respondent possessed  
18 a completed check, money order, traveler's check, warrant and county order, with the intent to  
19 utter and pass and facilitate the utterance and a passage of the same, in order to defraud a person.

20 b. On or about June 4, 2008, after pleading guilty, Respondent was convicted of one  
21 misdemeanor count of violating Health and Safety Code section 11550, subdivision (a) [under the  
22 influence of a controlled substance] in the criminal proceeding entitled *The State of California v.*  
23 *Alfonso Landazuri* (Super.Ct. San Bernardino County, 2008, No. MSB706082). The Court  
24 sentenced Respondent to serve 90 days in San Bernardino County jail, ordered pronouncement of  
25 judgment withheld, and condition and revocable release granted for a period of 24 months, with  
26 terms and conditions. The circumstances surrounding the conviction are that on or about July 2,  
27 2007, Respondent was found to be under the influence of a controlled substance, to wit,  
28 Amphetamine.

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**SECOND CAUSE FOR DENIAL OF APPLICATION**

**(Acts Involving Dishonesty, Fraud, or Deceit)**

11. Respondent's application is subject to denial under section 480, subdivision (a)(2), in that Respondent committed dishonest acts, fraud, or deceit with the intent to substantially benefit himself, or substantially injure another. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 10, subparagraph (a), as though set forth fully.

**THIRD CAUSE FOR DENIAL OF APPLICATION**

**(Knowingly Made a False Statement of Fact)**

12. Respondent's application is subject to denial under sections 480, subdivision (c), in that on or about December 15, 2009, Respondent knowingly made a false statement of fact by failing to disclose two convictions in 1998, on his application for licensure. In addition, Respondent signed under penalty of perjury, under the laws of the State of California, that the foregoing was true and correct, on his application for licensure. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraph 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

**FOURTH CAUSE FOR DENIAL OF APPLICATION**

**(Acts Warranting Denial of Licensure)**

13. Respondent's application is subject to denial under sections 4301, subdivision (p), and 480, subdivision (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a licentiate would be grounds for suspension or revocation of his license, as follows:

a. Respondent was convicted of crimes substantially related to the qualifications, functions, or duties of a pharmacy technician which to a substantial degree evidence his present or potential unfitness to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare, in violation of sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 10, subparagraphs (a) and (b), inclusive, as though set forth fully.

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