

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 BRETT A. KINGSBURY  
Deputy Attorney General  
4 State Bar No. 243744  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1192  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues  
11 Against:

Case No. 4049

**STATEMENT OF ISSUES**

12 **TIFFANY GIBBONS**  
13 **842 Pulteney Place**  
**Windsor, California 95492**

14 Respondent.

15  
16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
20 2. On or about May 19, 2010, the Board of Pharmacy, Department of Consumer Affairs  
21 (Board) received an application for a Pharmacy Technician Registration from Tiffany Jeanne  
22 Gibbons (Respondent). On or about May 14, 2010, Respondent certified under penalty of perjury  
23 to the truthfulness of all statements, answers, and representations in the application. The Board  
24 denied the application on March 1, 2011.

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.



1 "Notwithstanding any other provision of law, successful completion of any diversion  
2 program under the Penal Code, or successful completion of an alcohol and drug problem  
3 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
4 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
5 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
6 division, from taking disciplinary action against a licensee or from denying a license for  
7 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
8 record pertaining to an arrest.

9 "This section shall not be construed to apply to any drug diversion program operated by any  
10 agency established under Division 2 (commencing with Section 500) of this code, or any  
11 initiative act referred to in that division."

12 7. Section 4301 of the Code states:

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

16 ". . . .

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

22 ". . . .

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

25 "(k) The conviction of more than one misdemeanor or any felony involving the use,  
26 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
27 combination of those substances.

28

1           "(l) The conviction of a crime substantially related to the qualifications, functions, and  
2 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
4 substances or of a violation of the statutes of this state regulating controlled substances or  
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
6 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
7 The board may inquire into the circumstances surrounding the commission of the crime, in order  
8 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
9 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
10 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
11 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
12 of this provision. The board may take action when the time for appeal has elapsed, or the  
13 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
14 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
15 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
16 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
17 indictment.

18           ...."

19           8.     Section 4022 of the Code states

20           "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
21 humans or animals, and includes the following:

22           "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
23 prescription," "Rx only," or words of similar import.

24           "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
25 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
26 in with the designation of the practitioner licensed to use or order use of the device.

27           "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
28 prescription or furnished pursuant to Section 4006."

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

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

8 10. California Health and Safety Code section 11550(a) provides, in pertinent part:

9 "No person shall use, or be under the influence of any controlled substance which is (1)  
10 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,  
11 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified  
12 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)  
13 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in  
14 Schedule III, IV, or V, except when administered by or under the direction of a person licensed  
15 by the state to dispense, prescribe, or administer controlled substances. . . ."

16 **DRUGS**

17 11. Methamphetamine is a Schedule II controlled substance as designated by Health and  
18 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions  
19 Code section 4022. It is a stimulant drug.

20 **FIRST CAUSE FOR DENIAL OF APPLICATION**

21 (Criminal Convictions)

22 12. Respondent's application is subject to denial pursuant to Code sections 480, 4300(c)  
23 and 4301(k) & (l), as refined by sections 492 and 4022 of the Code and title 16, section 1770,  
24 Code of California Regulations, in that Respondent has criminal convictions. The circumstances  
25 are as follows:

26 13. On or around January 31, 2008, in the Superior Court of California for the County of  
27 Sonoma, Case # SCR-513693, Respondent was convicted of violating California Health & Safety  
28 Code § 11550(a) (Being Under the Influence of a Controlled Substance), a misdemeanor. The

1 circumstances are that on or around May 29, 2007, Respondent was arrested at a house for being  
2 under the influence of methamphetamines.

3 14. On or around January 31, 2008, in the Superior Court of California for the County of  
4 Sonoma, Case # SCR-528459, Respondent was convicted of violating California Health & Safety  
5 Code § 11550(a) (Being Under the Influence of a Controlled Substance), a misdemeanor. The  
6 circumstances are that on or around December 31, 2007, Respondent was driving a vehicle when  
7 she was pulled over and arrested for being under the influence of methamphetamines.

8 **SECOND CAUSE FOR DENIAL OF APPLICATION**

9 (Violation of State Statutes Regulating Dangerous Drugs)

10 15. Respondent's application is subject to denial pursuant to Code sections 4300(c) and  
11 4301(j) and California Health and Safety Code section 11550(a) in that Respondent violated a  
12 state statute regulating a dangerous drug. The circumstances are described above in the First  
13 Cause for Denial of Application.

14 **THIRD CAUSE FOR DENIAL OF APPLICATION**

15 (Self-Administration of Methamphetamines)

16 16. Respondent's application is subject to denial pursuant to Code sections 4300(c) and  
17 4301(h) in that Respondent self-administered a dangerous drug or controlled substance to the  
18 extent or in a manner dangerous to herself or others or to the extent that it impairs her ability to  
19 conduct safely the practice authorized by registration. The circumstances are described above in  
20 the First Cause for Denial of Application.

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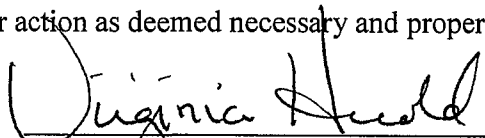
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PRAYER

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. Denying the application of Tiffany Jeanne Gibbons for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 8/15/11



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

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