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

11 In the Matter of the Statement of Issues  
Against:

Case No. 4052

12 **ANGELA LYNN KOLAKOWSKI**

**STATEMENT OF ISSUES**

13 **5129 Northland Drive**  
14 **Modesto, CA 95357**  
15 **Pharmacy Technician Registration**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia K. Herold (Complainant) brings this Statement of Issues solely in her official  
21 capacity as the Executive Officer of the California State Board of Pharmacy.

22 2. On or about July 29, 2010, the California State Board of Pharmacy received an  
23 application for a/an Pharmacy Technician Registration from Angela Lynn Kolakowski  
24 (Respondent). On or about June 2, 2010, Angela Lynn Kolakowski certified under penalty of  
25 perjury to the truthfulness of all statements, answers, and representations in the application. The  
26 Board denied the application on February 17, 2011.

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1 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

6 4. Section 480 of the Code states:

7 (a) A board may deny a license regulated by this code on the grounds that the  
8 applicant has one of the following:

9 (1) Been convicted of a crime. A conviction within the meaning of this section  
10 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.  
11 Any action that a board is permitted to take following the establishment of a  
12 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.

13 (2) Done any act involving dishonesty, fraud, or deceit with the intent to  
substantially benefit himself or herself or another, or substantially injure another.

14 (3) (A) Done any act that if done by a licentiate of the business or profession in  
15 question, would be grounds for suspension or revocation of license.

16 5. Section 4301 of the Code states:

17 The board shall take action against any holder of a license who is guilty of  
18 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:

19 ...

20 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
21 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.

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

24 ...

25 (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.

26 ...

27 (l) The conviction of a crime substantially related to the qualifications,  
28 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

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

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

23 6. Section 4060 of the Code states:

24 No person shall possess any controlled substance, except that furnished to a  
25 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
26 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
27 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
28 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to  
Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section  
shall not apply to the possession of any controlled substance by a manufacturer,  
wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or  
physician assistant, when in stock in containers correctly labeled with the name and  
address of the supplier or producer.

Nothing in this section authorizes 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.

### CONTROLLED SUBSTANCE AT ISSUE

7. "Marijuana" is a Schedule I controlled substance as designated by Health and Safety  
Code section 11054, subdivision (d)(13).

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1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Criminal Convictions)

3 8. Respondent's application is subject to denial under section 480, subsection (a)(1) in  
4 that on or about February 20, 2007, in a criminal proceeding entitled *People v. Angela Lynn*  
5 *Kolakowski* in Stanislaus County Superior Court, Case Number 1220346, Respondent was  
6 convicted by plea of nolo contendere in Penal Code section 273a, subsection (b) (willful cruelty  
7 to a child), a misdemeanor. Respondent was sentenced to 48 months probation and 26 days in  
8 jail. The circumstances are as follows:

9 a. On or about December 17, 2006, officers from the Stanislaus County Sheriff's  
10 Office searched Respondent's and her boyfriend's residence pursuant to a Narcotics Search  
11 Warrant. Inside the residence, officers discovered and seized 74 mature marijuana plants from a  
12 converted garage. An additional 325 immature marijuana plants were located in the northwest  
13 bedroom. Respondent acknowledged knowing about the mature marijuana plants and stated that  
14 she did not have a medical marijuana card. Respondent admitted to smoking marijuana, with her  
15 last use being one week prior.

16 Respondent's two minor children were also located inside the residence. The  
17 residence contained dog feces throughout, electrical hazards and contained materials related to  
18 marijuana grow. The residence contained rotting food and little to no food for the children to eat.  
19 Respondent was arrested and her children were placed into protective custody.

20 9. Respondent's application is subject to denial under section 480, subsection (a)(1) in  
21 that on or about August 29, 2007, in a criminal proceeding entitled *People v. Angela Lynn*  
22 *Kolakowski* in Stanislaus County Superior Court, Case Number 1229294, Respondent was  
23 convicted by plea of nolo contendere in violation of Health and Safety Code section 10980,  
24 subsection (c)(2) (fraud to obtain aid), a misdemeanor. Respondent was sentenced to 36 months  
25 probation. The circumstances are as follows:

26 a. On or about and between March 2005 through June 2005, Respondent reported  
27 \$0 in income on her quarterly eligibility report for aid to the Stanislaus county Community  
28 Services Agency when in fact, her boyfriend had received \$6,564 in income from his employer.

1 Respondent acknowledged her responsibility, and stated that her drug addiction was a factor in  
2 the misrepresentation. Respondent was ordered to pay back the aid she received for that quarter.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Dishonest Acts)**

5 10. Respondent's application is subject to denial under section 480, subsection (a)(2) in  
6 that on or about and between March 1, 2005 to June 30, 2005, Respondent fraudulently obtained  
7 government aid by placing untrue statements on her application for such aid, as more fully set  
8 forth in paragraph 9, above.

9 **THIRD CAUSE FOR DENIAL OF APPLICATION**

10 **(Acts Warranting Discipline if Licensed)**

11 11. Respondent's application is subject to denial under section 480, subsection (a)(3)(A)  
12 as described in sections 4301, subsection (f) (dishonest acts), (g) (knowingly making a false  
13 statement), (l) (criminal conviction) and (o) (violation of laws), as more fully set forth in  
14 paragraphs 8-10, above.

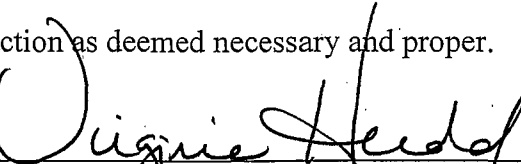
15 12. Respondent's application is subject to denial under section 480, subsection (a)(3)(A)  
16 as described in section 4301, subsection (j) in that Respondent unlawfully possessed the  
17 Controlled Substance, Marijuana, as more fully set forth in paragraph 8, above.

18 **PRAYER**

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

- 21 1. Denying the application of Angela Lynn Kolakowski for a Pharmacy Technician  
22 Registration;  
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: 7/14/11



25 VIRGINIA K. HEROLD  
26 Executive Officer  
27 California State Board of Pharmacy  
28 State of California  
*Complainant*

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