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8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 4092
12	Against:
13	JENNIFER SCHALOY STEELE STATEMENT OF ISSUES
14	1530 Lake Boulevard, #F Redding, CA 96003
15	Pharmacy Technician License
16	Respondent.
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19	Complainant alleges:
20	<u>PARTIES</u>
21	1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
22	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
23	2. On or about January 7, 2010, the Board of Pharmacy, Department of Consumer
24	Affairs received an application for a Pharmacy Technician License from Jennifer Schaloy Steele
25	(Respondent). On or about December 6, 2009, Jennifer Schaloy Steele certified under penalty of
26	perjury to the truthfulness of all statements, answers, and representations in the application. The
27	Board denied the application on April 29, 2011.
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JURISDICTION

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

- 4. Section 4300 of the Code states:
- "(a) Every license issued may be suspended or revoked."

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure.

5. Section 4301 of the Code states:

"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:

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

"(1) 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.

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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.

6. Section 480 of the Code states:

- "(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.
- "(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

- "(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."
 - 7. 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."

- 8. Section 125.3 of the Code provides, in pertinent part, that the Board/Registrar/Director may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.
- 9. Section 118, subdivision (b), of the Code provides that the suspension/expiration /surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

FIRST CAUSE FOR DENIAL OF APPLICATION (CRIMINAL CONVICTION)

10. Respondent's application is subject to denial under section 480(a)(1) in conjunction with section 4300 in that on or about February 19, 2010, in a criminal proceeding entitled *People v. Jennifer Schaloy Steele*, in Superior Court of California, County of Shasta, Case Number MCRDCRN 100000863. Respondent was convicted by plea of guilty to violating Penal Code section 148(a)(1) (Resisting, Obstructing, Delaying an Officer) a misdemeanor which is substantially related to the qualifications, functions or duties as a pharmacy technician. The circumstances are as follows:

1	2. Taking such other and further action as deemed necessary and proper.
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3	DATED: ///8/1) Ligina Steed VIRGINIA HEROLD
4	Executive Officer Board of Pharmacy Department of Consumer Affairs State of California
5	Department of Consumer Affairs State of California
7	Complainant
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