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

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

Case No. 4158

13 **BARBARA EUTIMIA BECERRA**
23797 Black Canyon Drive
14 Sun City, CA 92587

STATEMENT OF ISSUES

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about October 27, 2010, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician Registration from Barbara Eutimia
23 Becerra (Respondent). On or about October 18, 2010, Barbara Eutimia Becerra certified under
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on May 25, 2011.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (c) of the Code states, in pertinent part, that the Board may
6 refuse a license to any applicant guilty of unprofessional conduct.

7 5. Section 475 of the Code states, in pertinent part:

8 (a) Notwithstanding any other provisions of this code, the provisions of this
9 division shall govern the denial of licenses on the grounds of:

10
11 (3) Commission of any act involving dishonesty, fraud or deceit with the
12 intent to substantially benefit himself or another, or substantially injure another.

13 (4) Commission of any act which, if done by a licentiate of the business or
14 profession in question, would be grounds for suspension or revocation of license.

15 **STATUTORY PROVISIONS**

16 6. Section 480 states, in pertinent part:

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

19
20 (2) Done any act involving dishonesty, fraud or deceit with the intent to
21 substantially benefit himself or herself or another, or substantially injure another.

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

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

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1 7. Section 482 of the Code states:

2 Each board under the provisions of this code shall develop criteria to evaluate
3 the rehabilitation of a person when:

4 (a) Considering the denial of a license by the board under Section 480; or

5 (b) Considering suspension or revocation of a license under Section 490.

6 Each board shall take into account all competent evidence of rehabilitation
7 furnished by the applicant or licensee.

8 8. Section 4022 of the Code states:

9 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
10 self-use, except veterinary drugs that are labeled as such, and includes the following:

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

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

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

19 9. Section 4060 of the Code states, in pertinent part:

20 No person shall possess any controlled substance, except that furnished to a
21 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, . . .

22 10. Section 4301 of the Code states:

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

27 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
28 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 a misdemeanor, or not.

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(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.

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REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1769 states:

(a) When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant.

12. 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.

DRUGS

13. Hydrocodone is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(I), and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is a narcotic pain reliever.

14. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.

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1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Unprofessional Conduct – Illegal Possession of Controlled Substances – Hydrocodone and**
3 **Methamphetamine – on April 16, 2010)**

4 15. Respondent's application is subject to denial for unprofessional conduct under
5 section 4301, subdivision (j) of the Code in that Respondent was in possession of the controlled
6 substances and dangerous drugs hydrocodone and methamphetamine without a prescription in
7 violation of section 4060 of the Code. The circumstances are as follows:

8 16. During the months of March through April 2010, Riverside Sheriff's Office deputies
9 assigned to the South West Corridor Task Force (SWCTF) conducted an investigation at 1103
10 Buchanan Street, Lake Elsinore, California, Respondent's then address, regarding illegal sales of
11 narcotics. While conducting surveillance at the address, deputies noticed people would arrive at
12 the location and leave after a short period of time. Respondent's husband (JMT) was observed
13 approaching a vehicle and reaching into the passenger side window, then stepped back from the
14 window; then the vehicle left quickly. During this transaction, deputies noticed JMT was with a
15 young juvenile, later identified as JMT's two-year-old son, MT. Deputies also noticed a green
16 Kia arrive at the location and leave several times. The Kia would continuously arrive at the
17 location, then leave to unknown destinations, taking different routes each time and always
18 returning to the above location. The driver of the Kia was later identified as AV.

19 17. On April 15, 2010, the SWCTF obtained a search warrant for the above address, as
20 deputies formed the opinion that illegal sales of narcotics were occurring at the location and that
21 AV was a possible "runner" or deliveryman for the narcotic sales. Deputies also formed the
22 opinion that the juvenile was endangered due to JMT's narcotic involvement.

23 18. On April 15, 2010, at approximately 0800 hours, deputies assigned to SWCTF served
24 the search warrant at the above location. After announcing themselves, deputies made entry into
25 the location through the unlocked front door and contacted AV who was lying on the couch in the
26 living room of the residence and was detained without incident. Respondent's husband, JMT,
27 was lying in bed and at the foot of his bed there was a small bed where his son was sleeping.
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1 Deputies detained JMT without incident. JMT told deputies that Respondent was at school and
2 deputies contacted Respondent via cell phone and she agreed to come home to meet with
3 deputies.

4 19. While waiting for Respondent to arrive home, deputies interviewed JMT, who told
5 deputies that he started selling methamphetamine for money to pay the bills since February of
6 2010 because he was unemployed and that there were about 28.5 grams of methamphetamine in
7 the bathroom that he had intended to sell. JMT told deputies that he would sell \$20, \$30 or \$40
8 worth of methamphetamine to customers. JMT also told deputies that Respondent was aware of
9 his illegal sales of methamphetamine, that she often drove him to "re-up" his narcotic supply in
10 Anaheim, that Respondent preferred to drive him because she did not trust anyone else, and that
11 Respondent was fully aware of the narcotic sales from the residence. JMT told deputies that AV
12 was his "runner" and delivered methamphetamine for JMT in exchange for money.

13 20. Respondent arrived at the residence and was interviewed by deputies. Respondent
14 initially denied having knowledge of any illegal narcotic activity at her residence, and later
15 admitted to being aware of JMT's methamphetamine sales. Deputies asked Respondent if she
16 ever drove JMT to "re-up" his narcotic supply, and Respondent stated, "I don't trust other
17 people." Respondent told deputies JMT met with various people in the back shed and in the
18 garage.

19 21. A search of the residence revealed a black and silver pouch on the floor. Inside the
20 pouch were several Ziploc bags. One bag contained 22.5 grams of white crystalline substance,
21 and eleven additional bags each containing .25 grams of white crystalline substance, for a total
22 weight of 25 grams of methamphetamine. Deputies also located 15 yellow oval tablets, identified
23 as hydrocodone, and lots of drug paraphernalia items, such as digital scales, meth pipes, and
24 metal measuring spoons, all with white residue which tested positive for methamphetamine. The
25 narcotics located inside the master bathroom were determined to be easily accessible to the
26 couple's 2-year-old son. All three adults were arrested for conspiracy to sell methamphetamine,
27 and the 2-year-old child was picked up by Child Protective Services.

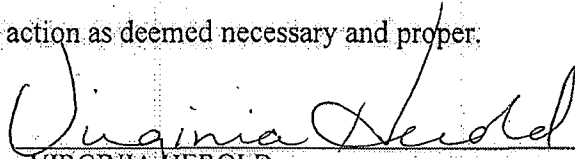
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PRAYER

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 Barbara Eutimia Becerra for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 3/27/12



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

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