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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. 4160
12	Against:
13	RACHEL LEE LOUKAS1012 Holbrook Ct.STATEMENT OF ISSUES
14	Yakama, WA 98902
15	Applicant.
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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 March 22, 2011, the Board of Pharmacy, Department of Consumer
22	Affairs received an application for a Pharmacist License from Rachel Lee Loukas (Respondent).
23	On or about March 8, 2011, Rachel Lee Loukas certified under penalty of perjury to the
24	truthfulness of all statements, answers, and representations in the application. The Board denied
25	the application on July 12, 2011.
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	STATEMENT OF ISSUES

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 unless otherwise indicated.
5	4. Section 4300 of the Code states in pertinent part:
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7	"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
8	board may, in its sole discretion, issue a probationary license to any applicant for a license who is
9	guilty of unprofessional conduct and who has met all other requirements for licensure. The board
10	may issue the license subject to any terms or conditions not contrary to public policy, including,
11	but not limited to, the following:
12	"(1) Medical or psychiatric evaluation.
.13	"(2) Continuing medical or psychiatric treatment.
14	"(3) Restriction of type or circumstances of practice.
15	"(4) Continuing participation in a board-approved rehabilitation program.
16	"(5) Abstention from the use of alcohol or drugs.
17	"(6) Random fluid testing for alcohol or drugs.
18	"(7) Compliance with laws and regulations governing the practice of pharmacy.
19	5. Section 4301 of the Code states in pertinent part:
20	"The board shall take action against any holder of a license who is guilty of unprofessional
21	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
22	Unprofessional conduct shall include, but is not limited to, any of the following:
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24	"(h) The administering to oneself, of any controlled substance, or the use of any dangerous
25	drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
26	oneself, to a person holding a license under this chapter, or to any other person or to the public, or
27	to the extent that the use impairs the ability of the person to conduct with safety to the public the
28	practice authorized by the license.
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STATEMENT OF ISSUES

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

(1) The conviction of a crime substantially related to the qualifications, functions, and 5 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 6 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 7 substances or of a violation of the statutes of this state regulating controlled substances or 8 9 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. 10 The board may inquire into the circumstances surrounding the commission of the crime, in order 11 to fix the degree of discipline or, in the case of a conviction not involving controlled substances 12 or dangerous drugs, to determine if the conviction is of an offense substantially related to the 13 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 14 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 15 of this provision. The board may take action when the time for appeal has elapsed, or the 16 judgment of conviction has been affirmed on appeal or when an order granting probation is made 17 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 18 19 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 20 indictment. 21

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"(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter. 24

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California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license 26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a 27 crime or act shall be considered substantially related to the qualifications, functions or duties of a 28

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."

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7. Section 480 of the Code states in pertinent part:

5 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
6 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.

"(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."

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## FIRST CAUSE FOR DENIAL OF APPLICATION

## (Criminal Convictions)

8. Respondent's application is subject to denial under sections 480, 4300, and 4301(h),
and (l) in that she has been criminally convicted as follows:

a. On or about March 11, 2008, respondent was convicted of Reckless Driving in
the Missoula Municipal Court, State of Montana, Case No. CR-2007-004077. The facts and
circumstances were as follows:

On December 13, 2007, Respondent was pulled over and charged with a DUI.
Respondent failed to submit to a breath test, and her drivers' license was suspended. The charge

was subsequently reduced to Reckless Driving. Respondent was fined \$351 and ordered to complete an alcohol assessment class, which was completed on July 9, 2008. No further treatment was ordered at that time.

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b. On or about January 28, 2009, Respondent was convicted on her plea of Guilty
of Driving Under the Influence and Driving with a Suspended License in the Missoula County
Justice Court, State of Montana case no. TK-2008-0032370-T2. The facts and circumstances
were as follows:

8 On October 20, 2008, Respondent was involved in an alcohol related automobile 9 accident for which she was hospitalized. After her release from the Hospital, respondent 10 voluntarily admitted herself to the Rimrock Foundation Treatment Center in Billings Montana 11 where she was diagnosed with alcohol dependence and completed a 28 day program. Respondent 12 was fined \$990 and placed on misdemeanor probation for 6 months.

c. On or about November 10, 2009, Respondent was convicted of Obstructing a
 Peace Officer or Other Public Servant in the Missoula Municipal Court, State of Montana, Case
 no. CR-2009-002501. The facts and circumstances were as follows:

Between January 28, 2009 and November 10, 2009, on a date unknown, respondent
had a relapse and failed or refused to provide information to a peace officer.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Convictions involving consumption of alcohol)

9. Respondent's application is subject to denial under section 4301 (k) in that she was
convicted of the crimes set forth in paragraphs 8, (a) through (c) above, all of which involved the
consumption of alcohol.

## THIRD CAUSE FOR DENIAL OF APPLICATION

## (Out-of-State discipline)

10. Respondent's application is subject to denial under section 4301(n) in that she was
granted a conditional credential as a Pharmacist in the State of Washington by and through
Agreement to Practice With Conditions No. M2010-508, dated June 10, 2010. The basis for the

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1	action was Unprofessional Conduct as defined by the laws of the State of Washington, based on
2	the criminal convictions set forth above.
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4	PRAYER
5	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6	and that following the hearing, the Board of Pharmacy issue a decision:
7	1. Denying the application of Rachel Lee Loukas for a Pharmacist License;
8	2. Taking such other and further action as deemed necessary and proper.
9	DATED: 12/5/11 liging bed
10	VIRGINIA NEROLD
11	Executive Officer Board of Pharmacy
12	Department of Consumer Affairs State of California
13	Complainant
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	STATEMENT OF ISSUES