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8	BEFORE THE POARD OF PHARMACY
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Statement of Issues Case No. 4224
12	Against:
13	LIEW K. SAETURN STATEMENT OF ISSUES
14	Respondent.
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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	(Board).
21	2. On or about February 18, 2011, the Board received an Application for Registration as
22	a Pharmacy Technician from Liew K. Saeturn (Respondent). On or about January 12, 2011,
23	Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
24	representations in the application. The Board denied the application on October 6, 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 (Code) unless
28	otherwise indicated.
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1	STATUTORY PROVISIONS
2	4. Code section 480 states, in part:
	(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
7	of conviction has been affirmed on appeal, or when an order granting probation is
8 made suspending the imposition of sentence, irrespective of a subsequent order u the provisions of Section 1203.4 of the Penal Code.	
<b>}</b>	(2) Done any act involving dishonesty, fraud, or deceit with the intent to
	substantially benefit himself or herself or another, or substantially injure another.
1	(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.
3	(B) The board may deny a license pursuant to this subdivision only if the
4	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
5	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
7	with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
8	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.
D	(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.
	5. Code section 490 states, in part:
3	(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has
4    5	been convicted of a crime, if the crime is substantially related to the qualifications,
)   . 5   .	functions, or duties of the business or profession for which the license was issued.
7	(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the
3	authority granted under subdivision (a) only if the crime is substantially related to the
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1	qualifications, functions, or duties of the business or profession for which the licensee's license was issued.
2	(c) A conviction within the meaning of this section means a plea or verdict of
3	guilty or a conviction following a plea of nolo contendere. Any action that a board is
4	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
5	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.
6 7	6. Code section 493 states, in part:
8	Notwithstanding any other provision of law, in a proceeding conducted by a
9	board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who
10	holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the
11	licensee in question, the record of conviction of the crime shall be conclusive
12	evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order
13	to fix the degree of discipline or to determine if the conviction is substantially related
	to the qualifications, functions, and duties of the licensee in question.
14	7. Code section 4300 provides, in pertinent part, that every license issued by the Board
15 16	is subject to discipline, including suspension or revocation.
17	8. Code section 4301 states, in part:
18	The board shall take action against any holder of a license who is guilty of
<sup>-</sup> 19	unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
20	not limited to, any of the following:
21	••••
22	(1) The conviction of a crime substantially related to the qualifications,
23	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
24	States Code regulating controlled substances or of a violation of the statutes of this
25	state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall
26	be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to
27	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
28	substantially related to the qualifications, functions, and duties of a licensee under this

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1 2 3 4 5	chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 Section 1203.4 of 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 indictment.
6	••••
7	(p) Actions or conduct that would have warranted denial of a license.
8	REGULATORY PROVISIONS
9	9. California Code of Regulations, title 16, section 1770 provides, in part:
10 -11	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 ————
12	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
13	it evidences present or potential unfitness of a licensee or registrant to perform the
14	functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.
15	FIRST CAUSE FOR DENIAL OF APPLICATION
16	(Substantially Related Convictions)
17	(Bus. & Prof. Code §§480(a)(1))
18	10. Respondent's application is subject to denial under Code sections 480, subdivision
19	(a)(1), in that she was convicted of crimes substantially related to the qualifications, functions,
20	and duties of a licensed pharmacy technician, within the meaning of California Code of
21	Regulations, title 16, section 1770. The circumstances are as follows:
22	11. On or about March 5, 2007, in a criminal proceeding entitled People v. Liew Saeturn
23	in San Mateo County, Case Number SCO61311B, Respondent was convicted for violating Penal
24	Code section 32 (Accessory to a Crime), a felony.
25	a. Respondent was sentenced to serve 2 years of probation and 45 days in county
26	jail and to comply with other terms and conditions.
27	b. The underlying events that gave rise to the conviction are as follows: on or
28	about April 28, 2006, the Daly City Police Department found 2 pistols and 2 plastic bags
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1	containing marijuana residue in Respondent's car during a parole search involving Respondent's
2	boyfriend. Respondent admitted that after hearing that her boyfriend was arrested, she went to his
3	house and flushed down the toilet 2 bags of marijuana and 30 ecstasy <sup>1</sup> pills. She also admitted
4	that she put the emptied marijuana bags and 2 pistols in her car.
5	12. On or about April 11, 2007, in a criminal proceeding entitled <i>People v. Liew Saeturn</i>
6	in San Francisco County, Case Number 2292285, Respondent was convicted for violating
7	Vehicle Code section 23152 (Driving While Under the Influence of Alcohol), a misdemeanor.
8	a. Respondent was sentenced to serve 3 years of probation and 2 days in county
9	jail, to complete a first offender drinking driver program, and to comply with other terms and
10	conditions.
11	b. The underlying events that gave rise to the conviction are as follows: on or
12	about November 17, 2006, the California Highway Patrol stopped Respondent after observing her
13	weaving in between traffic lanes on Interstate 80 in San Francisco, California. The arresting
14	officer observed that she had slow and slurred speech and a strong odor of alcohol on her breath.
15	Respondent admitted to drinking 5 shots of vodka. Her blood alcohol level was .12%.
16	SECOND CAUSE FOR DENIAL OF APPLICATION
17	(Dishonesty, Fraud, or Deceit) (Bus. & Prof. Code §480(a)(2))
18	13. Respondent's application is subject to denial under Code section 480, subdivision
19	(a)(2), in that Respondent committed dishonest acts, fraud, or deceit with the intent to
20	substantially benefit herself, or substantially injure another. Complainant refers to, and by this
21	reference incorporates, the allegations set forth above in paragraph 11 and its subparts, above, as
22	though set forth fully.
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28	<sup>1</sup> MDMA or 3, 4-methylenedioxymethamphetamine, a controlled substance.
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1	<u>THIRD CAUSE FOR DENIAL OF APPLICATION</u> (Acts Which if Done by Licentiate Would be Cause for Discipline) (Bus. & Prof. Code §480(a)(3) and 4301(p))
3	14. Respondent's application is subject to denial under Code section 480, subdivision
1	(a)(3), and 4301, subdivision (p), in that Respondent committed acts which if done by a licentiate
5	would be grounds for suspension or revocation of her license. Respondent was convicted of
5	crimes substantially related to the qualifications, functions, or duties of a pharmacy technician in
7	violation of Code sections 490 and 4301, subdivision (l), and in conjunction with California Code
3	of Regulations, title 16, section 1770. Complainant refers to, and by this reference incorporates,
, ,	the allegations set forth above in paragraphs 11 and 12 and their sub-parts, above, as though set
́р	forth fully.
1 2	<u>FOURTH CAUSE FOR DENIAL OF APPLICATION</u> (Failure to Disclose Convictions on Application) (Bus. & Prof. Code §480(c))
3	15. Respondent's application is subject to denial under Code section 480, subdivision (c),
1	in that she knowingly made a false statement of fact required to be revealed in the application for
5	the license. Paragraph 6 of the Application for Registration as a Pharmacy Technician stated, in
5	part: "Have you ever been convicted of or plead no contest to a violation if any law of a foreign
7	country, the United States or any state laws or local ordinances? You must include all felonies
8	and misdemeanors regardless of the age of the conviction, including those which have been set
•	aside under Penal code section 1203.4." Respondent failed to disclose her 2007 convictions for
o	violating Penal Code section 32 and Vehicle Code section 23152. Complainant refers to, and by
1	this reference incorporates, the allegations set forth above in paragraphs 11 and 12 and their sub-
2	parts, above, as though set forth fully.
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PRAYER WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Statement of Issues, and that following the hearing, the Board of Pharmacy issue a decision: 1. Denying the application of Liew K. Saeturn for a Pharmacy Technician License; and 2. Taking such other and further action as deemed necessary and proper. 5/29/12 DATED: EROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant SF2012401030/ statement of issues.rtf STATEMENT OF ISSUES (Case No. 4224)