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

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

Case No. 4488

12 **JULIE ANNE ROBINSON**

STATEMENT OF ISSUES

13 Respondent.
14

15 Complainant alleges:

16 PARTIES

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

19 2. On or about July 20, 2012, the Board of Pharmacy, Department of Consumer Affairs
20 received an application for a Pharmacy Technician license from Julie Anne Robinson
21 (Respondent). On or about July 17, 2012, Respondent certified under penalty of perjury to the
22 truthfulness of all statements, answers, and representations in the application. The Board denied
23 the application on October 16, 2012.

24 JURISDICTION

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

28 4. Section 4300 of the Code states:

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"(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. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

- "(1) Medical or psychiatric evaluation.
- "(2) Continuing medical or psychiatric treatment.
- "(3) Restriction of type or circumstances of practice.
- "(4) Continuing participation in a board-approved rehabilitation program.
- "(5) Abstention from the use of alcohol or drugs.
- "(6) Random fluid testing for alcohol or drugs.
- "(7) Compliance with laws and regulations governing the practice of pharmacy.

"(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

STATUTORY AUTHORITY

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:

"....

1 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or
2 administering or offering to sell, furnish, give away, or administer any controlled substance to an
3 addict. .

4 "(j) The violation of any of the statutes of this state, or any other state, or of the United
5 States regulating controlled substances and dangerous drugs.

6 ". . . ."

7 6. Section 4060 of the Code states:

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

19 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
20 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
21 devices."

22 7. Section 11550(a) of the California Health & Safety Code provides:

23 "No person shall use, or be under the influence of any controlled substance which is (1)
24 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
25 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
26 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
27 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
28 Schedule III, IV, or V, except when administered by or under the direction of a person licensed

1 by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of
2 the defense to show that it comes within the exception. Any person convicted of violating this
3 subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90
4 days or more than one year in a county jail. The court may place a person convicted under this
5 subdivision on probation for a period not to exceed five years and, except as provided in
6 subdivision (c), shall in all cases in which probation is granted require, as a condition thereof, that
7 the person be confined in a county jail for at least 90 days. Other than as provided by subdivision
8 (c), in no event shall the court have the power to absolve a person who violates this subdivision
9 from the obligation of spending at least 90 days in confinement in a county jail.

10 DRUGS

11 8. **Methamphetamine** is a Schedule II controlled substance as designated by Health and
12 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions
13 Code section 4022. It is a stimulant drug.

14 COSTS

15 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16 administrative law judge to direct a licentiate found to have committed a violation or violations of
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
18 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
19 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
20 included in a stipulated settlement.

21 FIRST CAUSE FOR DENIAL OF APPLICATION

22 (Violation of Statute Regulating Controlled Substances)

23 10. Respondent's application is subject to denial under sections 4300(c) & 4301(j) of the
24 Code in that Respondent violated a statute regulating controlled substances. The circumstances
25 are as follows.

26 11. Respondent violated Code section 4060 in that at various times between 2000 and
27 2003, and again between 2005 and 2007, Respondent possessed a controlled substance, namely
28 methamphetamine.

1 12. Respondent violated California Health & Safety Code section 11550(a) in that on
2 various occasions between 2000 and 2003, and again between 2005 and 2007, Respondent used a
3 controlled substance, namely methamphetamine.

4 SECOND CAUSE FOR DENIAL OF APPLICATION

5 (Administering Controlled Substance to an Addict)

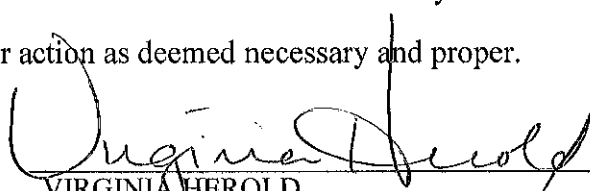
6 13. Respondent's application is subject to denial under sections 4300(c) & 4301(i) of the
7 Code in that on various occasions between 2000 and 2003, and again between 2005 and 2007,
8 Respondent administered a controlled substance (methamphetamine) to an addict, namely herself.

9 PRAYER

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

- 12 1. Denying the application of Julie Anne Robinson for a Pharmacy Technician license;
13 2. Taking such other and further action as deemed necessary and proper.

14 DATED: 6/27/13


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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