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

11 In the Matter of the Statement of Issues Against: Case No. 5629

12 **JESSICA MARIE PACHECO**

13 **Pharmacy Technician License Applicant**

14 Respondent.

15 **STATEMENT OF ISSUES**

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 (“Board”), Department of Consumer  
20 Affairs.

21 2. On or about February 26, 2015, the Board received an application for a pharmacy  
22 technician license from Jessica Marie Pacheco (“Respondent”). On or about February 20, 2015,  
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 August 26, 2015.

25 **JURISDICTION/STATUTORY PROVISIONS**

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 unless otherwise  
28 indicated.

1           4.       Section 480 states, in pertinent part:

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

4                   (1) Been convicted of a crime. A conviction within the meaning of this  
5 section means a plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere. Any action that a board is permitted to take following the establishment  
7 of a conviction may be taken when the time for appeal has elapsed, or the judgment  
8 of conviction has been affirmed on appeal, or when an order granting probation is  
9 made suspending the imposition of sentence, irrespective of a subsequent order under  
10 the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

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

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

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

18           5.       Section 4301 states, in pertinent part:

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

23                   . . . .

24                   (f) The commission of any act involving moral turpitude, dishonesty,  
25 fraud, deceit, or corruption, whether the act is committed in the course of relations as  
26 a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

27                   . . . .

28                   (l) 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. 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. 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

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
3 dismissing the accusation, information, or indictment.

3 **FIRST CAUSE FOR DENIAL**

4 **(Criminal Conviction)**

5 6. Respondent's application is subject to denial pursuant to section 480, subdivisions  
6 (a)(1) and (a)(3)(A), in that on or about July 20, 2006, in the criminal proceeding entitled *People*  
7 *vs. Jessica Marie Pacheco* (Marin County Super. Ct., Case No. SC146926), Respondent pled  
8 guilty to violating Penal Code section 496, subdivision (a) (knowingly receiving stolen property),  
9 a felony, a crime substantially related to the qualifications, functions, and duties of a pharmacy  
10 technician. Respondent's conviction would constitute cause for discipline against her pursuant to  
11 section 4301, subdivision (l), were she a licentiate of the Board.

12 7. The circumstances of the above crime are as follows: On or about April 7, 2006,  
13 Tiburon Police Department ("TPD") officers responded to the Waters Edge Hotel on Main Street  
14 on a report of subjects using a fraudulent credit card to rent a room. The officers went to the  
15 room and located Respondent and a male subject. One of the officers left the room and went to  
16 the front desk. The officer called Citibank and was informed that one of the credit card numbers  
17 had been reported stolen earlier that morning. The officer contacted the other officers by portable  
18 radio and advised them that the stolen credit card number had been used to rent the hotel room.  
19 The officer returned to the room and observed that Respondent and the male subject had been  
20 detained in handcuffs. The officer asked Respondent for consent to search her purse, and  
21 Respondent agreed. Respondent told the officer that she had some medical marijuana in the  
22 purse. The officer located a wooden flip-top box in Respondent's purse containing a California  
23 driver's license and social security card in the name of victim M. G. and various credit cards in  
24 the names of victims M. G. and J. G. Respondent initially told the officers that the items  
25 belonged to her grandmother. The officer walked Respondent out to his patrol car and  
26 transported her to the TPD. The officer asked Respondent about the credit card number which  
27 she and the male subject had used to rent the hotel room. Respondent admitted that they used the  
28 card numerous times in the past couple of weeks to rent a U-Haul and to purchase a number of

1 items. Respondent told the officer that the wooden box and credit cards belonged to her  
2 grandmother, then stated, "All right, stop, I lied." Respondent claimed that she did not know  
3 where the items came from and that she and the male subject had not used the cards as they had  
4 all been declined. Later, the officer transported Respondent and the male subject to the Marin  
5 County Jail for booking. Respondent told the officer that a few weeks ago, she was in a friend's  
6 car. Respondent's friend went into a house in Stockton, California, to purchase  
7 methamphetamine. Respondent stayed in the car and was "tweaking on meth". Respondent came  
8 across the wooden box full of credit cards. Respondent stated that she knew they were stolen and  
9 decided to take them from her friend to use.

10 **SECOND CAUSE FOR DENIAL**

11 **(Dishonesty, Fraud or Deceit)**

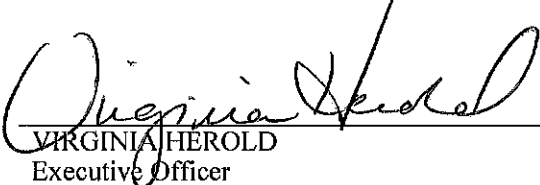
12 8. Respondent's application is subject to denial pursuant to section 480, subdivision  
13 (a)(2), in that Respondent committed acts involving dishonesty, fraud or deceit with the intent to  
14 substantially benefit herself or another, or substantially injure another, as set forth in paragraph 7  
15 above. Respondent's acts would constitute cause for discipline against her pursuant to section  
16 4301, subdivision (f), were she a licentiate of the Board.

17 **PRAYER**

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

- 20 1. Denying the application of Jessica Marie Pacheco for a pharmacy technician license;  
21 2. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: 1/25/16

24   
25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

SA2015105379