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

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

Case No. 5822

14 **ANA MARISOL QUINTANA**  
**Pharmacy Technician License**

**STATEMENT OF ISSUES**

Respondent.

15  
16  
17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 29, 2015, the Board of Pharmacy, Department of Consumer  
23 Affairs received an application for a Pharmacy Technician License from Ana Marisol Quintana  
24 (Respondent). On or about October 28, 2015, Ana Marisol Quintana certified under penalty of  
25 perjury to the truthfulness of all statements, answers, and representations in the application. The  
26 Board denied the application on March 25, 2016.

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 provides, in pertinent part, that every license issued by the Board is  
6 subject to discipline, including suspension or revocation."

7 5. Section 480 of the Code states:

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

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

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

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

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

23 "(b) Notwithstanding any other provision of this code, a person shall not be denied a  
24 license solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
25 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
26 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
27 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
28 the rehabilitation of a person when considering the denial of a license under subdivision (a) of

1 Section 482.

2 "(c) Notwithstanding any other provisions of this code, a person shall not be denied a  
3 license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4,  
4 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been  
5 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof  
6 of the dismissal.

7 "(d) A board may deny a license regulated by this code on the ground that the applicant  
8 knowingly made a false statement of fact that is required to be revealed in the application for the  
9 license."

### 10 REGULATORY PROVISIONS

11 6. California Code of Regulations, title 16, section 1770, states:

12 "For the purpose of denial, suspension, or revocation of a personal or facility license  
13 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
14 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
15 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
16 licensee or registrant to perform the functions authorized by his license or registration in a manner  
17 consistent with the public health, safety, or welfare."

### 18 FIRST CAUSE FOR DENIAL OF APPLICATION

#### 19 (Conviction of Substantially Related Crimes)

20 7. Respondent's application is subject to denial under section 480, subdivision (a)(1), in  
21 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of  
22 unprofessional conduct, in that Respondent was convicted of crimes are substantially related to  
23 the qualifications, functions, or duties of the business or profession for which the application is  
24 made as follows:

25 a. On or about February 10, 2011, in a criminal proceeding entitled *People v. Ana*  
26 *Marisol Quintana*, Los Angeles Superior Court, Case Number 28262KQ-1999, Respondent was  
27 convicted of a misdemeanor by plea of nolo contendere for violating Vehicle Code section 40508  
28 subdivision (a) for failure to appear after written promise and an infraction for violating Vehicle

1 Code section 12500 driving without a license. Respondent was ordered to serve five (5) days in  
2 county jails and pay fines.

3 b. On or about March 17, 2011, in a criminal proceeding entitled *People v. Ana*  
4 *Marisol Quintana*, Los Angeles Superior Court, Case Number SA076666, Respondent was  
5 convicted by plea of nolo contendere for violating Penal Code section 459 for burglary. Thereafter  
6 on July 15, 2014, the Court reduced Respondent's felony conviction to a misdemeanor pursuant to  
7 Penal Code section 17 subdivision (a) and her case was dismissed pursuant to Penal Code section  
8 1203.4. The circumstances surrounding this violation are such that Respondent and another  
9 suspect were observed by a security officer breaking into vehicles in an underground parking  
10 garage. Once police contacted the Respondent and other individual, the police searched their  
11 possessions and found several credit cards, a driver's license belonging to the registered owner of  
12 one of the cars, two vehicle GPS systems, a hammer, pliers, a screwdriver, a flash light, iPods,  
13 earphones, cell phones and 3.6 gg of what appeared to be marijuana. Respondent was also found  
14 to have a knife on her person. Respondent was ordered to serve 38 days in county jail, 10 days of  
15 Cal Trans and pay fines and restitution.

### 16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

#### 17 **(Acts Involving Dishonesty, Fraud, or Deceit)**

18 8. Respondent's application is subject to denial under sections 480, subdivision (a)(2),  
19 and 4301, subdivision (f), on the grounds of unprofessional conduct, in that Respondent was  
20 convicted of crimes that involved dishonest acts, fraudulent, and /or deceitful acts with the intent  
21 to substantially benefit herself, or substantially injure another. Complainant refers to, and by this  
22 reference incorporates, the allegations set forth above in paragraph 7, subparagraph (b), inclusive,  
23 as though set forth fully.

### 24 **THIRD CAUSE FOR DENIAL OF APPLICATION**

#### 25 **(Acts Warranting Denial of Licensure)**

26 9. Respondent's application is subject to denial under section 480, subdivision (a)(3), on  
27 the grounds of unprofessional conduct, in that Respondent was convicted of crimes and  
28 committed acts which if done by a licentiate would be grounds for suspension or revocation of her

1 license. Complainant refers to, and by this reference incorporates, the allegations set forth above  
2 in paragraph 7, subparagraph (b), inclusive, as though set forth fully.

3 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

4 **(Knowingly Making a False Statement of Fact)**


5 10. Respondent's application is subject to denial under section 480 subdivision (d) in that  
6 Respondent made a false statement of fact required to be revealed on her application for licensure  
7 with the Board. The circumstances are such that on October 28, 2015, Respondent marked "No"  
8 to the conviction question on her Pharmacy Technician application with the Board.

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 Ana Marisol Quintana for a Pharmacy Technician License;  
13 and  
14 2. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 11/3/16



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

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