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

In the Matter of the Statement of Issues Against:	Case No. 4096
<b>CARYN LYNN TROTTA-GUNDERSEN</b>	OAH No. 4096
Applicant for Pharmacist License	<b>DEFAULT DECISION AND ORDER</b>
Respondent.	[Gov. Code, § 11520]

**FINDINGS OF FACT**

1. On or about March 24, 2012, Complainant Virginia Herold ("Complainant"), in her official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs, filed Statement of Issues No. 4096 against Caryn Lynn Trotta-Gundersen ("Respondent") before the Board.
2. On or about September 21, 2010, Respondent filed an application dated August 8, 2010, with the Board of Pharmacy to obtain a pharmacist license.
3. On or about February 1, 2011, the Board issued a letter denying Respondent's application for a pharmacist license. On or about March 28, 2011, Respondent appealed the Board's denial of her application and requested a hearing.

1           4.    On or about April 12, 2012, Lametric Lewis, an employee of the Department of  
2 Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 4096,  
3 Statement to Respondent, Respondent / Applicant's Notice of Designation of Counsel (two  
4 blanks), Respondent / Applicant's Notice of Withdrawal of Request for Hearing (two blanks),  
5 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
6 and 11507.7), to Respondent's address on the application form, which was and is 15201 W.  
7 Becker Lane, Surprise, AZ, 85379. A copy of the Statement of Issues is attached hereto, marked  
8 Exhibit A, and incorporated herein by reference.

9           5.    Service of the Statement of Issues was effective as a matter of law under the  
10 provisions of Government Code section 11505, subdivision (c)

11           6.    On or about March 28, 2011, Respondent appealed the denial of her application and  
12 requested a hearing in this action. On or about April 25, 2012, Respondent submitted her signed  
13 and dated Respondent / Applicant's Notice of Withdrawal of Request for Hearing. A copy of  
14 Respondent's Notice is attached hereto, marked Exhibit B, and incorporated herein by reference.

15           7.    Business and Professions Code section 118 states, in pertinent part:

16               (a) The withdrawal of an application for a license after it has been filed with a  
17 board in the department shall not, unless the board has consented in writing to such  
18 withdrawal, deprive the board of its authority to institute or continue a proceeding  
19 against the applicant for the denial of the license upon any ground provided by law or  
20 to enter an order denying the license upon any such ground.

21           8.    Government Code section 11506 states, in pertinent part:

22               (c) The respondent shall be entitled to a hearing on the merits if the respondent  
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
24 of the accusation not expressly admitted. Failure to file a notice of defense shall  
25 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
26 may nevertheless grant a hearing.

27           9.    California Government Code section 11520 states, in pertinent part:

28               (a) If the respondent either fails to file a notice of defense or to appear at the  
hearing, the agency may take action based upon the respondent's express admissions  
or upon other evidence and affidavits may be used as evidence without any notice to  
respondent; and where the burden of proof is on the respondent to establish that the  
respondent is entitled to the agency action sought, the agency may act without taking  
evidence.



1 Respondent committed act that if done by a licentiate, would be grounds for discipline under  
2 Code sections 490 and 4301, subdivisions (f), (i), (l), and (n).

3 **ORDER**

4 **IT IS SO ORDERED** that the application of Respondent Caryn Lynn Trotta-Gundersen is  
5 hereby denied.

6 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
7 written motion requesting that the Decision be vacated and stating the grounds relied on within  
8 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
9 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

10 This Decision shall become effective on September 14, 2012.

11 It is so ORDERED on August 15, 2012.

12 BOARD OF PHARMACY  
13 DEPARTMENT OF CONSUMER AFFAIRS  
14 STATE OF CALIFORNIA

15 

16 By

17 STANLEY C. WEISSER  
18 Board President

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20 **Attachments:**

21 Exhibit A: Statement of Issues No. 4096

22 Exhibit B: Respondent / Applicant's Notice of  
23 Withdrawal of Request for Hearing

**Exhibit A**

**Statement of Issues No. 4096**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
4 State Bar No. 117576  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5337  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues Against:

Case No. 4096

12 **CARYN LYNN TROTTA-GUNDERSEN**  
13 **a.k.a. CARYN TROTTA**  
15201 W. Becker Lane  
14 Surprise, AZ 85379-5341

**STATEMENT OF ISSUES**

15 Applicant for Pharmacist License

16 Respondent.

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 ("Board"), Department of Consumer  
22 Affairs.

23 2. On or about September 21, 2010, the Board received an application for a Pharmacist  
24 license from Caryn Lynn Trotta-Gundersen also known as Caryn Trotta ("Respondent"). On or  
25 about August 8, 2010, Respondent certified under penalty of perjury to the truthfulness of all  
26 statements, answers, and representations in the application. The Board denied the application on  
27 February 1, 2011.

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JURISDICTION

3. Section 4300 of the Code provides, in pertinent part, the Board may refuse a license to any applicant guilty of unprofessional conduct.

STATUTORY PROVISIONS

4. Section 480 of the Code states, in pertinent:

(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 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.

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

(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.

5. Section 4022 of the Code states:

Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

6. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant

1 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or  
2 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
3 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.  
4 This section shall not apply to the possession of any controlled substance by a  
5 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
6 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
7 practitioner, or physician assistant, when in stock in containers correctly labeled  
8 with the name and address of the supplier or producer.

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

12 7. Section 4301 of the Code states, in pertinent part:

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

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

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

23 (l) The conviction of a crime substantially related to the qualifications,  
24 functions, and duties of a licensee under this chapter. The record of conviction of  
25 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the  
26 United States Code regulating controlled substances or of a violation of the  
27 statutes of this state regulating controlled substances or dangerous drugs shall be  
28 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 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.

(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.

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1           **DRUG**

2           8. **Hydrocodone** is a Schedule II controlled substance as designated by Health and  
3 Safety Code section 11055, subdivision (b)(1)(I).

4           9. **Vicodin**, a brand of Hydrocodone, is a compound consisting of 5 mg Hydrocodone  
5 Bitartrate, also known as Dihydrocodeinone, and 500 mg Acetaminophen per tablet and is a  
6 Schedule III controlled substance as designated by Health and Safety Code section 11056,  
7 subdivision (e)(4).

8   **FIRST CAUSE FOR DENIAL OF APPLICATION**

9   (Out of State Discipline)

10           10. Respondent's application is subject to denial under Code sections 4300 and 4301,  
11 subdivision (n), in that on or about August 11, 2004, Respondent entered into a Consent  
12 Agreement with the Arizona State Board of Pharmacy ("Arizona Board") which suspended her  
13 Pharmacist Intern License No. 5768, for from six months to not more than two years from the  
14 date of her voluntary surrender of license effective November 21, 2003, followed by probation for  
15 a period of five years, and specific terms and conditions. (A true copy of the Consent Agreement  
16 is attached hereto, marked Exhibit A, and incorporated herein by this reference.) The underlying  
17 circumstances leading to the Arizona Board's action against Respondent are:

18           a. On or about October 9, 2003, Respondent was charged with the illegal sale or  
19 transportation of narcotic drugs, a Class 2 felony in Arizona, for her illegal activity occurring  
20 between the dates of June 25, 2003, and July 28, 2003.

21           b. On or about November 21, 2003, Respondent voluntarily surrendered Intern  
22 License No. 5768 to the Arizona Board and agreed not to accept employment as a Pharmacy  
23 Intern or Technician, and not to enter the dispensing area of any pharmacy.

24           c. On or about April 29, 2004, the Maricopa County Superior Court placed  
25 Respondent on probation, effective April 21, 2004, for one year for narcotic drug-possession, a  
26 Class 6 Felony under A.R.S. §13-3408(A)(1) and fined Respondent \$2,166.00.

27           d. The Arizona Board issued conclusions of law finding Respondent had violated  
28 A.R.S. §§32-1927(A)(2) and (A)(5) in that Respondent's pharmacy intern license was subject to

1 revocation or suspension or probation for (i) conviction of a felony and (ii) addiction to the use of  
2 alcohol or other drugs to such a degree as to render the licensee unfit in the opinion of the  
3 Arizona Board to practice the profession of pharmacy.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

5 (Criminal Conviction)

6 11. Respondent's application is subject to denial under Code section 480, subdivision  
7 (a)(1), in that on or about April 29, 2004, in the case titled *People v. Caryn Lynn Trotta-*  
8 *Gundersen*, Maricopa County Superior Court, State of Arizona, Case No. AZ16696404 ,  
9 Respondent was convicted on her plea of guilty of violating Arizona 's statute prohibiting  
10 solicitation of narcotic drug, possession, or use, a Class 6 Felony under A.R.S. §13-3408(A)(1).  
11 Said crime is substantially related to the qualifications, duties and functions of a licensed  
12 pharmacist. Respondent was also fined \$2,166.00 and was sentenced to probation for one year.

13 a. The circumstances are as follows: On or about July 28, 2003, Respondent was  
14 arrested by the Surprise Police Department, Surprise, Arizona, for violating A.R.S. 13-3406A.7  
15 [transferring prescription only drugs, a Class 6 Felony]. At the time, Respondent was employed  
16 by Walgreens, 2222 W. Northern Avenue, #A101, Chandler, Arizona, as a pharmacist assistant  
17 and was attending school to be a pharmacist. A pharmacist complained to the Walgreens Loss  
18 Prevention Supervisor that on several occasions, he/she would fill a customer's prescription for  
19 Hydrocodone and then it would come up missing. The Loss Prevention Supervisor investigated  
20 the complaint and Walgreens' video surveillance tape shows Respondent transferring prescription  
21 drugs to a then-unknown person. He also collected five prescription tags from Walgreens in  
22 which the customers' prescriptions became missing. When confronted, Respondent admitted to  
23 the Loss Prevention Supervisor that she had filled patient prescriptions for Hydrocodone and then  
24 given them to her sister-in-law M.G. instead of the patients. Walgreens terminated Respondent's  
25 employment due to her theft. The value of the unlawfully transferred Hydrocodone was \$229.74,  
26 according to Walgreens. Respondent failed to cooperate with the law enforcement officer in that  
27 she refused to provide the telephone number and address for M.G. Respondent was charged with  
28

1 three counts of violating A.R.S. 13-3406A.7, transferring prescription-only drugs, a Class 6  
2 Felony.

3 b. On or about February 1, 2005, the Maricopa County Superior Court discharged  
4 Respondent's probation, re-designated Respondent's conviction to a misdemeanor, and suspended  
5 the sentence.

6 **THIRD CAUSE FOR DENIAL OF APPLICATION**

7 (Acts of Deceit, Dishonesty)

8 12. Respondent's application is subject to denial under Code sections 4300 and 480,  
9 subdivision (a)(2), on the grounds of unprofessional conduct in that Respondent committed acts  
10 of dishonesty, fraud, or deceit with the intent to substantially benefit herself or another, or  
11 substantially injure another. The underlying circumstances are set forth in paragraph 11.a, above,  
12 incorporated herein by this reference.

13 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

14 (Acts Warranting Discipline if Done by a Licensee)

15 13. Respondent's application is subject to denial under Code sections 4300 and 480,  
16 subdivision (3)(A), on the grounds of unprofessional conduct in that Respondent committed act  
17 that if done by a licentiate, would be grounds for discipline under Code sections 490, 4301,  
18 subdivision (f), (i), (l), and (n). The underlying circumstances are set forth in paragraphs 10, 11,  
19 and 12, above, incorporated herein by this reference.

20 **PRAYER**

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

23 1. Denying the application of Caryn Lynn Trotta-Gundersen also known as Caryn Trotta  
24 for a Pharmacist license; and

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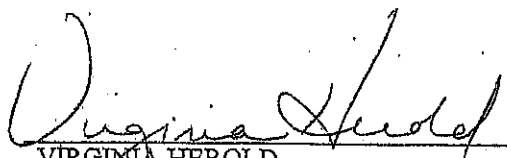
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2. Taking such other and further action as deemed necessary and proper.

DATED: 3/24/12



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

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