

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

In the Matter of the Statement of Issues Against:

Case No. 4424

ALTHEIA LENETTE TAYLOR

OAH No. 2013031039

Pharmacy Technician Registration Applicant

Respondent.

DECISION AND ORDER

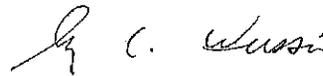
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on March 27, 2014.

It is so ORDERED on February 25, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

BEFORE THE
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In the Matter of the Application of:

ALTHEIA LENETTE TAYLOR,

Respondent.

Case No. 4424

OAH No. 2013031039

PROPOSED DECISION

Beth Faber Jacobs, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on September 13, 2013, and November 14, 2013, in San Bernardino, California.

Zachary Fanselow, Deputy Attorney General, Department of Justice, State of California, appeared on behalf of complainant, Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California.

Respondent, Altheia Lenette Taylor, represented herself.

The matter was submitted on November 30, 2013.

FACTUAL FINDINGS

Jurisdictional and Procedural Matters

1. On August 9, 2011, Altheia Lenette Taylor (respondent) signed an application for registration as a pharmacy technician. The Board of Pharmacy (board) received her application on August 16, 2011.

2. By letter dated July 26, 2012, the board advised respondent that her application was being denied because she incurred multiple convictions. On August 16, 2012, respondent filed pleadings with the board that appeared to appeal the decision. On March 1, 2013, complainant filed and served a Statement of Issues. Respondent did not file a Notice of Defense. Complainant treated the pleadings that respondent previously filed as a request for a hearing.¹

¹ These pleadings were received during the hearing as Exhibit 4.

3. A Notice of Hearing was served on respondent advising her that a hearing was scheduled to commence at 10:00 a.m., on Tuesday, September 3, 2013, in San Bernardino, California.

4. Complainant's counsel appeared for the hearing at the time and place scheduled for the hearing. Respondent mistakenly went to the wrong address in San Bernardino, requested that the hearing be trailed for three hours, and then went to the Attorney General's Office in Los Angeles where she thought the hearing was being held. To facilitate completion of the hearing, the parties stipulated that respondent could appear by telephone. A working copy of most of the exhibits complainant intended to offer into evidence was provided to respondent for her use in Los Angeles. The record was opened. Complainant struck paragraph 9e of the Accusation. Evidence was received. The matter did not conclude and was continued. Respondent, who had not yet produced discovery, was ordered to send to the deputy attorney general and the Office of Administrative Hearings (OAH) a copy of every document she intended to offer into evidence by September 6, 2013. Thereafter, respondent sent documents that were received by OAH and the deputy attorney general on September 9, 2013, September 16, 2013, September 19, 2013, and October 23, 2013.

5. The hearing resumed on November 14, 2013, in San Bernardino, California. Respondent appeared at the hearing. She offered numerous documents into evidence, including those she sent to OAH and to the deputy attorney general after September 6, 2013. With the exception of pleadings that respondent wrote and submitted on October 23, 2013, all of the documents that respondent offered were received in evidence. Respondent made a motion to continue the case so that she could have more time to obtain additional dismissals of her prior convictions. The motion was denied. Respondent completed her testimony. During complainant's closing argument, respondent became agitated and angry. She took her belongings and left the hearing. Closing argument was completed without her. The record was closed, and the matter was submitted.

6. Thereafter, respondent sent ex parte communications to the Office of Administrative Hearings in November and December 2013. The record was reopened to address the first ex parte communication. Orders were issued under Government Code section 11430.50. To the extent respondent's filings could be construed as requests to reopen the record, respondent's requests were denied. The matter was submitted on November 30, 2013.

Respondent's Convictions

7. Between 1987 and 2008, respondent incurred ten convictions. They are as follows:

1987 - Arson of Property

8. On November 12, 1987, in *People v. Altheia Lenette Taylor*, Los Angeles Superior Court, Case No. A474893, respondent pled guilty and was convicted of violating Penal Code section 451, subdivision (d), arson of property. Respondent was sentenced to

serve one day in jail and was placed on probation for 36 months with terms and conditions of probation, including the requirement that she obtain psychological counseling.

1990- Felony Child Detention

9. On November 26, 1990, in *People v. Altheia Lenette Taylor*, Los Angeles County Superior Court, Case No. BA019579, respondent pled guilty and was convicted of violating Penal Code section 278.5 [felony child detention with the right to custody – having custody rights to a child and depriving another person who also has custody rights to that child access to that child]. Respondent was sentenced to serve 151 days in jail, for which she was given credit for time served, followed by probation for 36 months. Respondent was ordered to stay away from the child's father, M.S., to keep the probation department advised of the whereabouts of their child, and to not interfere with M.S.'s visitation rights.

According to the felony complaint to which respondent pled guilty, respondent's conviction was for concealing her child from the child's father on June 5, 1990.

On April 20, 2011, the Superior Court granted respondent's motion to have the conviction dismissed under Penal Code section 1203.4. Respondent's plea of guilty was set aside; a plea of not guilty was entered; and the case was dismissed.

1998 – Giving False Information to a Police Officer

10. On August 12, 1998, in *People v. Altheia Lenette Taylor*, San Bernardino County Superior Court, Case No. MWV045302, respondent pled nolo contendere and was convicted of violating Penal Code section 148.9, subdivision (a), giving false information to a police officer. The Court withheld judgment and granted a conditional and revocable release for 12 months on the condition that respondent violate no laws and pay fines. On January 7, 1999, the court revoked and reinstated probation, and ordered respondent to complete 30 hours in a work sentence program by April 1999. Respondent failed to complete the program, but the conditional release expired and the court lost jurisdiction.

1999- Giving False Information to a Police Officer and Resisting Arrest

11. On December 27, 1999, in *People v. Altheia Lenette Taylor*, San Bernardino County Superior Court, Case No. MWV050713, respondent pled guilty and was again convicted of violating Penal Code section 148.9, subdivision (a), giving false information to a police officer, and she was also convicted of violating Penal Code section 148, subdivision (a), obstructing an officer or resisting arrest, when she was stopped by law enforcement officers while she was driving on February 10, 1999.

2001- Welfare Fraud

12. On February 5, 2001, in *People v. Altheia Taylor*, Riverside County Superior Court, Case No. PEF005133, respondent pled guilty and was convicted of violating Welfare and Institutions Code section 10980, subdivision (c), welfare fraud, a felony. Respondent

was sentenced to serve 90 days in jail and was placed on three years formal probation with terms and conditions of probation, including the requirement that she pay \$2,949 in restitution. Respondent did not comply with the terms and conditions of probation. Probation was extended, and respondent was ordered to serve more time in jail. Including credit from before she was sentenced, respondent served 186 days in jail before her release.

The conviction was the result of respondent's failure to accurately report her earnings while she was receiving public assistance.² Between May 1998 and January 1999, respondent reported to government officials that she was an unemployed parent of a child, and on that basis, she received cash assistance and food stamps. As a condition of receiving public assistance, respondent was required to report all income received from any source. Respondent submitted monthly reports regarding her earnings. Between May 1998 and January 1999, respondent claimed she earned a total of \$390. In fact, she was employed at various places (including Apple One, Frito Lay, Act Now, and Robinson's May), and she earned \$8,198.86 during this period. Respondent dishonestly failed to report her earnings from May 1998 through January 1999.

On December 23, 2010, the Superior Court granted respondent's motion to have the conviction dismissed under Penal Code section 1203.4. Her plea of guilty was set aside, a plea of not guilty was entered, and the case was dismissed.

2002- Disorderly Conduct/Public Intoxication

13. On May 7, 2002, in *People v. Altheia Taylor*, Los Angeles County Superior Court, Case No. 2IW00986, respondent pled nolo contendere and was convicted of violating Penal Code section 647, subdivision (f), disorderly conduct/public intoxication. The Court placed respondent on a suspended sentence for 12 months on the conditions that respondent pay \$100 restitution and attend 10 Narcotics Anonymous meetings and 10 Alcoholics Anonymous meetings. Respondent did not comply with the conditions. A bench warrant was issued, and respondent was placed on formal probation. The bench warrant was recalled October 30, 2002.

The conviction arose out of respondent's conduct on April 5, 2002, at about 9:30 p.m., when respondent was found asleep in the driver's seat of a vehicle parked a few feet from the curb in a residential area. Police stopped to investigate. An officer woke respondent and questioned her. Although respondent correctly told the officer she was on

² These factual findings and the factual findings regarding the circumstances giving rise to the convictions in paragraphs 13 through 16 are based in part on information included in law enforcement reports received under *Lake v. Reed* (1997) 16 Cal.4th 448. *Lake v. Reed* held that portions of a law enforcement officer's report, including the officer's percipient observations and the party's admissions are admissible in an administrative proceeding over a hearsay objection. Under Government Code section 11513, subdivision (c), the admissible hearsay can support a factual finding, and the remaining hearsay statements (administrative hearsay) can be used only to supplement or explain other evidence on which a factual finding can be made. (*Lake v. Reed* (1997) 16 Cal.4th at 461-462, 464.)

probation for fraud and that she was not licensed to drive a vehicle, she appeared confused about other matters; she did not know the time of day or where she was, and she inaccurately stated that she owned the rental vehicle in which she had been sleeping.

2005 – Driving without a Valid Driver's License

14. On April 5, 2005, in *People v. Altheia Lenette Taylor*, Los Angeles County Superior Court, Case No. 5WL21636, respondent pled nolo contendere and was convicted of violating Vehicle Code section 12500, subdivision (a), driving without a valid driver's license. The Court placed respondent on probation for 12 months with terms and conditions of probation, including the requirements that she not drive without a valid driver's license, that she pay a fine of \$105, or, in lieu of the fine, that she perform 50 hours of community service. The conviction stemmed from respondent having driven a motor vehicle on January 22, 2005, when she did not hold a valid driver's license.

2005 – Evading a Police Officer

15. On July 6, 2005, in *People v. Altheia Lenette Taylor*, San Bernardino County Superior Court, Case No. TCH37088, respondent pled guilty and was convicted of violating Vehicle Code section 2800.1, subdivision (a), evading a police officer. The Court sentenced respondent to 30 days in jail, to be followed by probation for 36 months with terms and conditions of probation. Respondent did not comply with the terms and conditions, and probation was revoked in 2008. Respondent was required to serve additional days in jail.

The circumstances giving rise to the conviction stemmed from respondent's actions on June 28, 2005, at about 11:30 p.m. That night, respondent was in a retail parking lot standing next to her vehicle. A deputy sheriff who was on patrol drove by the lot and saw respondent. There were no other vehicles in the lot. When the deputy drove over to respondent and activated his light, respondent went into the vehicle's driver's seat and started to drive in circles in the lot. The deputy activated his emergency lights. Respondent stopped, got out of her car, and had a discussion with the deputy. Respondent refused to provide any identification, ran back to her car, and drove away. The deputy followed her. Respondent ran a red light and missed a car that had to swerve in order to avoid being hit by respondent. Respondent stopped at a Shell gas station and ran into the station's store. Respondent continued running even after the deputy yelled at her to stop. In addition to trying to evade the deputy, respondent was also driving with a suspended or revoked driver's license.

2008 – Evading a Police Officer

16. On August 18, 2008, in *People v. Altheia L. Taylor*, San Bernardino County Superior Court, Case No. FSB802316, respondent pled guilty and was convicted of violating Vehicle Code section 2800.2, subdivision (a), evading a police officer while driving with a willful or wanton disregard for the safety of persons or property, a felony. The Court sentenced respondent to serve 210 days at the Glen Helen Rehabilitation Center, with credit for the 67 days she had already served in jail, and ordered supervised probation for 36

months, with terms and conditions of probation. The court also ordered that respondent's driving privilege be revoked.

The circumstances giving rise to the conviction stem from respondent's conduct on May 20, 2008. Respondent was again driving on a suspended license. She was stopped by officers after she made an illegal left turn. When officers told respondent that her car would be impounded because she was driving with a suspended license, respondent became very upset. She asked the officer not to impound her vehicle. She went into traffic, trying to flag down vehicles, and asking people if they had a driver's license. The officer told her that her car would be impounded even if someone with a license offered to assist. As the officer was completing paperwork, respondent got back into her car and started to drive away. The officer followed in pursuit. Respondent refused to stop, even after the officer activated his lights and siren. Respondent was driving at speeds up to 65 miles per hour. She ran two stop signs and four red lights and dangerously weaved through traffic. The police officer eventually reached respondent, pulled her out of the vehicle, and put her in handcuffs.

On February 4, 2011, while respondent was still on probation for this conviction, she filed a motion under Penal Code section 1203.4 to have the conviction dismissed. The matter was not dismissed, but on February 9, 2011, the court reduced the conviction from a felony to a misdemeanor.

Respondent's Testimony

17. The core of respondent's testimony was to emphasize her efforts to get all of her convictions dismissed or "sealed." She sent letters or pleadings to each court she could locate where she had incurred a conviction. Staff from some of the courts told her that they did not have records of her convictions because they were so old. Respondent found it difficult to get responses from some of the courts. Even though she had formal documentation to show dismissal of only two of her convictions under Penal Code section 1203.4 and a reduction from a felony to a misdemeanor in another conviction, respondent felt that most, if not all, of her convictions had actually been dismissed. Alternatively, she believed that any conviction over 10 years old was automatically "sealed."

18. In respondent's estimation, her convictions for arson and detaining a child arose from a "love quarrel" with her former partner and were the result of what she felt was being a battered woman with few alternatives. She felt the welfare fraud conviction was petty, and she was particularly angry about that conviction. Respondent felt that authorities in Riverside County were biased; she felt that if she had lived in Los Angeles, she never would have been charged with or convicted of welfare fraud. She stated: "\$400 - come on, it's only \$400," and added that "I don't think LA would go after me if it was only \$400." She did not explain how she arrived at the \$400 figure, but she gave the following explanation: She had just bought a new home, had received 13 traffic tickets, had lost her job, was supporting three children and her father, had a broken down car, and she could not make her \$1,000 monthly mortgage payment. Respondent stated that she worked many jobs for which she did not report her earnings because she needed the money.

19. Respondent also blamed the Los Angeles Superior Court for some of her convictions. She called it a "functionally illiterate system" and added that "a lot of this stuff [against me] is court error."

20. Respondent strongly denied intentionally evaded law enforcement. She felt discriminated against by the sheriff's officers and filed an excessive force suit against the county following her second conviction for evading law enforcement. Respondent did not produce any documentation regarding the results of her lawsuit against the county.

21. Respondent felt that her other convictions were "just" related to driving. She did not see how they were relevant to the board or to being a pharmacy technician. She believes she is rehabilitated because she does not drive anymore. However, near the end of the hearing, respondent acknowledged that she has a driver's license, owns two cars, and sometimes drives. During cross examination, respondent was asked about her conviction for disorderly conduct/public intoxication. She answered that "everybody drinks for the holidays," and she refused to answer further questions on the issue, saying that she thought the deputy attorney general's questions were "ridiculous." She added: "I don't want to answer this nonsense; I've got better things to do than answer this." Respondent did not feel the board had the right to inquire about her life outside of working hours, and stated: "What I do outside of work is my business."

22. Respondent stated she received a BA in computer programming from Dominguez Hills in 1989. She felt entitled to become a pharmacy technician. She took out student loans to attend school to become a registered pharmacy technician. She completed an internship at CVS pharmacy. She does not feel she should have to pay back her student loan unless she becomes licensed and repeatedly stated that if she did not get her license, she did not intend to repay her student loan.

23. Respondent felt she had a strong work history that supported her becoming licensed. She produced evidence showing she worked at the Bank of America for some months in 2006, and she gave a list of numerous other places she worked over the years.

24. Respondent produced a 2013 letter from Good Samaritan Hospital indicating she volunteered 48 hours at the hospital. It was not clear whether this was community service performed to comply with a criminal probation requirement or whether respondent volunteered for entirely altruistic reasons. Respondent did not discuss any other volunteer involvement.

LEGAL CONCLUSIONS

The Burden and Standard of Proof

1. In a proceeding involving the issuance of a license, the burden of proof is on the applicant to show that he or she is qualified to hold the license. In order to prevail,

respondent must demonstrate by a preponderance of the evidence that she should become a registered pharmacy technician. (Evid. Code § 115.)

Applicable Statutes and Regulations

2. Under Business and Professions Code section 480, subdivision (a)(1), a license may be denied when an applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a pharmacy technician.

3. California Code of Regulations, title 16, section 1770, addresses the issue of substantial relationship. It states in part that:

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 it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare

4. Under Business and Professions Code section 480, subdivision (a)(2), any act involving dishonesty, fraud, or deceit with the intent to substantially benefit oneself or another, or substantially injure another, is grounds for denial of a license.

5. Grounds for denial of a license also include doing any act that if done by a licensee would be grounds for suspension or revocation of the license, as long as the act or crime is substantially related to the qualifications, functions or duties of a pharmacy technician. (Bus. & Prof. Code, § 480, subdivisions (a)(3)(A) and (a)(3)(B).)

6. Business and Professions Code section 4301 lists numerous grounds for imposing discipline on a licensee. Included are the commission of any act involving dishonesty, fraud, deceit or corruption, regardless of whether it is a felony or misdemeanor (subdivision (f)); the conviction of a crime substantially related to the qualifications, functions, or duties of a pharmacy technician (subdivision (l)); and "actions or conduct that would have warranted denial of a license" (subdivision (p).)

Cause Exists to Deny a Registration to Respondent

7. Cause was established to deny respondent's application to become a Pharmacy technician. Each of respondent's convictions was substantially related to the qualifications, functions, or duties of a pharmacy technician. Respondent's convictions in 1998 and 1999 for giving false information to a police officer, and her conviction in 2001 for welfare fraud, all reflect acts of dishonesty, fraud, or deceit that respondent engaged in to benefit herself. Had she been licensed at the time she was convicted, each conviction would have been grounds for the imposition of discipline.

Rehabilitation

8. California Code of Regulations, title 16, section 1769, lists the criteria for evaluating an applicant's rehabilitation and his or her present eligibility for a license. These include:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

9. Rehabilitation is a state of mind. The law looks with favor on one who has achieved reformation and regeneration. (*Hightower v. State Bar* (1983) 34 Cal.3d 150, 157.) The evidentiary significance of an individual's misconduct is greatly diminished by the passage of time and by the absence of similar, more recent misconduct. (*In Re Gossage* (2000) 23 Cal.4th 1080, 1098; *Kwasnik v. State Bar* (1990) 50 Cal.3d 1061, 1070.)

Evaluation

10. Respondent applied to become licensed as a pharmacy technician in the face of a lengthy criminal history. Most of her convictions occurred years ago. Respondent has made an effort at rehabilitation. She went to school to better herself and to obtain a trade. Two of her convictions were dismissed under Penal Code section 1203.4. One felony was reduced to a misdemeanor. Respondent is no longer on criminal probation, and she has not been convicted of a crime in over five years. Despite these efforts, however, respondent has not demonstrated the kind of rehabilitation necessary to warrant the public's trust.

11. Pharmacy technicians have important responsibilities in the dispensing of prescribed medications. They have direct access to drugs and patient information. Technicians are often a patient's first point of contact at a pharmacy. They are required to follow instructions and hand out medications correctly, and they often handle money. Because dispensing medications can directly impact public safety, pharmacies are highly regulated. It is critical that a pharmacy technician be trustworthy, have respect for the law,

and exercise good judgment. Respondent's numerous convictions -- especially her conviction for welfare fraud, her convictions for giving law enforcement false information, and her convictions for evading the police -- show a lack of trustworthiness and a respect for the law.

12. Respondent did not accept responsibility for any of her convictions. She considered most of her convictions merely "traffic" matters that the board should not be bothered with. She was still angry about her conviction for welfare fraud because, in her opinion, if she had lived in Los Angeles rather than Riverside, the county of Los Angeles would not have prosecuted her. She showed no remorse for having made false statements to the county when she was receiving public assistance. She showed a lack of respect for the law by repeatedly driving without a driver's license and repeatedly evading police. She also felt her time "off the clock" was no one's business but her own and could not understand why the board would be interested in her criminal history. Respondent stated that if she was not given a license, she saw no reason to repay her student loans and that she did not intend to do so.

13. Respondent felt the board could not rely on convictions that were more than seven years old, or that after ten years, they were automatically dismissed or sealed. Respondent was mistaken. Licensing boards are permitted to review all of an applicant's criminal history, regardless of how far back that history goes. It was respondent's obligation to show how she was rehabilitated from those convictions. She did not. Although respondent also felt she should have been given more time to obtain dismissals of her convictions, her focus was misplaced. She had an adequate opportunity to obtain dismissals before she applied to become a pharmacy technician, in the two years after she applied and before the hearing was set, and even after the hearing was set. But even if respondent had obtained additional dismissals of her convictions, additional dismissals would not alter the board's authority to rely on those convictions as grounds for denial of a license. Because public protection is the key element in determining if an applicant should be licensed, agencies are permitted to inquire into substantially related convictions and to rely upon them to deny a license, even if the convictions have been dismissed under Penal Code section 1203.4. (*Krain v. Medical Board of California* (1999) 71 Cal.App. 4th 1416, 1420-1421, quoting *Adams v. County of Sacramento* (1991) 235 Cal.App.3d 872, 880-881.)

14. The weight of the evidence did not establish that respondent is rehabilitated from her convictions. Her conduct during the hearing bolstered this conclusion. She showed little insight or remorse. In addition, when she did not like the closing argument of the complainant's attorney, respondent became agitated and left the hearing in the midst of the attorney's argument. The board may take into account respondent's attitude toward the charges and her character as evidenced by her behavior and demeanor at the hearing. (*Yellen v. Board of Medical Quality Assurance* (1985) 174, Cal.App.3d 1040, 1059.) Respondent's statements and conduct during the hearing did not show the state of mind of a person who is rehabilitated. Granting respondent a pharmacy technician license, even on a probationary basis, would not be in the public interest. Respondent's application to become a pharmacy technician is denied.

ORDER

The application of Altheia Lenette Taylor to become a registered pharmacy technician is denied.

DATED: January 28, 2014


BETH FABER JACOBS
Administrative Law Judge
Office of Administrative Hearings

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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. 4424

12 **ALTHEIA LENETTE TAYLOR**
13 **a.k.a., ALTHEIA TAYLOR**

STATEMENT OF ISSUES

14 Respondent.

15
16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 16, 2011, the Board of Pharmacy ("Board") received an
22 application for Registration as a Pharmacy Technician from Altheia Lenette Taylor also known as
23 Altheia Taylor ("Respondent"). On or about August 9, 2011, Respondent certified under penalty
24 of perjury to the truthfulness of all statements, answers, and representations in the application.

25 The Board denied the application on July 26, 2012.

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27 ///

28 ///

1 JURISDICTION

2 3. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 STATUTORY PROVISIONS

6 4. Section 480 states, in pertinent part:

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

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

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

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

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

22 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
23 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
24 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
25 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
26 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
27 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
28 Section 482."

1 5. Section 490 states, in pertinent part:

2 "(a) In addition to any other action that a board is permitted to take against a licensee, a
3 board may suspend or revoke a license on the ground that the licensee has been convicted of a
4 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
5 or profession for which the license was issued.

6 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
7 discipline a licensee for conviction of a crime that is independent of the authority granted under
8 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
9 of the business or profession for which the licensee's license was issued.

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

16 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
17 subject to discipline, including suspension or revocation.

18 7. Section 4301 states, in pertinent part:

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

22

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

26

27 "(l) The conviction of a crime substantially related to the qualifications, functions, and
28 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

1 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
2 substances or of a violation of the statutes of this state regulating controlled substances or
3 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
4 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
5 The board may inquire into the circumstances surrounding the commission of the crime, in order
6 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
7 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
8 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
9 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
10 of this provision. The board may take action when the time for appeal has elapsed, or the
11 judgment of conviction has been affirmed on appeal or when an order granting probation is made
12 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
13 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
14 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
15 indictment.

16

17 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
18 violation of or conspiring to violate any provision or term of this chapter or of the applicable
19 federal and state laws and regulations governing pharmacy, including regulations established by
20 the board or by any other state or federal regulatory agency.

21 "(p) Actions or conduct that would have warranted denial of a license."

22 REGULATORY PROVISIONS

23 8. California Code of Regulations, title 16, section 1770, states:

24 "For the purpose of denial, suspension, or revocation of a personal or facility license
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Convictions of Substantially Related Crimes)**

5 9. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
6 that Respondent was convicted of crimes substantially related to the qualifications, functions, or
7 duties of a pharmacy technician, as follows:

8 a. On or about August 18, 2008, after pleading guilty, Respondent was convicted of one
9 felony count of violating Vehicle Code section 2800.2, subdivision (a) [evading a peace officer
10 while driving with a willful or wanton disregard for the safety of persons or property], in the
11 criminal proceeding entitled *The People of the State of California v. Altheia L. Taylor* (Super. Ct.
12 San Bernardino County, 2008, No. FSB802316). The Court sentenced Respondent to serve 210
13 days in San Bernardino County Jail and placed her on 36 months probation, with terms and
14 conditions. On or about February 9, 2011, the felony conviction was reduced to a misdemeanor.
15 The circumstances surrounding the conviction are that on or about May 20, 2008, during a traffic
16 stop by the San Bernardino Police Department, officers contacted Respondent and explained the
17 reason for the stop. A records check revealed that Respondent was driving with a suspended or
18 revoked license. When the officer informed Respondent that her car would be impounded
19 because she was driving on a suspended license, Respondent ran into traffic trying to flag down
20 vehicles and asking if anyone had a driver's license. The officer informed Respondent that if she
21 did not get out of the road he would have to handcuff her. As the officer was filling out impound
22 paperwork, Respondent got back into her vehicle, started the vehicle, and fled the scene at a high
23 speed. During her flight Respondent ran through several red lights, stop signs, and failed to stop
24 at the sound of the officer's siren. Respondent eventually pulled into a parking area of an
25 apartment building where she was detained and arrested.

26 b. On or about July 6, 2005, after pleading guilty, Respondent was convicted of one
27 misdemeanor count of violating Vehicle Code section 2800.1, subdivision (a) [evading a peace
28 officer], in the criminal proceeding entitled *The People of the State of California v. Altheia*

1 *Lenette Taylor* (Super. Ct. San Bernardino County, 2005, No. TCH37088). The Court sentenced
2 Respondent to serve 30 days in San Bernardino County Jail and placed her on 36 months
3 probation, with terms and conditions. The circumstances surrounding the conviction are that on
4 or about June 28, 2005, a San Bernardino Sheriff's Department officer initiated a traffic stop of
5 Respondent's vehicle. When the officer asked Respondent for her identification, Respondent
6 refused to provide identification. After refusing to provide identification Respondent ran back to
7 her vehicle and drove away on the wrong side of the road. During her flight Respondent failed to
8 stop at a red light, nearly hitting another vehicle. Respondent pulled into a gas station and ran
9 inside the store, while not wearing shoes or socks, where she was detained and arrested.

10 c. On or about April 1, 2005, after pleading nolo contendere, Respondent was convicted
11 of one misdemeanor count of violating Vehicle Code section 12500, subdivision (a) [driving
12 without a valid driver's license], in the criminal proceeding entitled *The People of the State of*
13 *California v. Altheia Lenette Taylor* (Super. Ct. Los Angeles County, 2005, No. 5WL21636).
14 The Court placed Respondent on 12 months probation, with terms and conditions. The
15 circumstances surrounding the conviction are that on or about January 22, 2005, Respondent
16 drove a vehicle without holding a valid driver's license.

17 d. On or about May 7, 2002, after pleading nolo contendere, Respondent was convicted
18 of one felony count of violating Penal Code section 647, subdivision (f) [disorderly conduct;
19 public intoxication], in the criminal proceeding entitled *The People of the State of California v.*
20 *Altheia Taylor* (Super. Ct. Los Angeles County, 2002, No. 2IW00896). The Court placed
21 Respondent on 12 months probation, with terms and conditions. The circumstances surrounding
22 the conviction are that on or about April 5, 2002, Respondent was sleeping in her car when she
23 was contacted by the Inglewood Police Department. Respondent appeared to be confused and
24 could not tell where she was or give the officer an estimate of the time of day, but did tell the
25 officer that she was unlicensed and on probation. During a search of the vehicle, the officer
26 found a small clear zip-lock baggy containing a green leafy substance that resembled marijuana.
27 In addition, the officer found a small zip-lock baggy containing a green leafy substance that
28 resembled marijuana in her front left pant pocket. Respondent was subsequently arrested for

1 violating Penal Code section 647, subdivision (f) [disorderly conduct; public intoxication] and
2 Health and Safety Code section 11357, subdivision (b) [possession of concentrated cannabis].

3 e. On or about February 5, 2001, Respondent was convicted of one misdemeanor count
4 of violating Penal Code section 242 [battery] in the criminal proceeding entitled *The People of the*
5 *State of California v. Althea Taylor* (Super. Ct. Riverside County, 2001, No. PEM022357). The
6 Court sentenced Respondent to serve 15 days in Riverside County Jail. The circumstances
7 surrounding the conviction are that on or about November 1, 2000, while issuing a parking
8 citation for Respondent's vehicle parked in a no stopping zone, Respondent became verbally
9 abusive towards the officers. Officers issued the citation, Respondent returned to her vehicle, and
10 began driving away before she threw her just issued citation out of the driver side window.
11 Officers subsequently conducted an enforcement stop, Respondent stated that she had no
12 identification on her, gave officers a false name and again became verbally abusive towards the
13 officers. Respondent was subsequently arrested for making false statements to a peace officer.

14 f. On or about February 5, 2001, Respondent was convicted of one misdemeanor count
15 of violating Welfare and Insurance Code section 10980, subdivision (c) [welfare fraud], in the
16 criminal proceeding entitled *The People of the State of California v. Althea Taylor* (Super. Ct.
17 Riverside County, 2001, No. PEF005133). The Court sentenced Respondent to serve 90 days in
18 Riverside County Jail and placed her on 36 months probation, with terms and conditions. The
19 circumstances surrounding the conviction are that on and between May 1998 and January 1999,
20 Respondent committed welfare fraud.

21 g. On or about December 27, 1999, Respondent was convicted of one misdemeanor
22 count of violating Penal Code section 148, subdivision (a) [obstructing/resisting officer] and one
23 misdemeanor count of violating Penal Code section 148.9, subdivision (a) [falsely representing or
24 identifying herself to a peace officer], in the criminal proceeding entitled *The People of the State*
25 *of California v. Althea L. Taylor* (Super. Ct. San Bernardino County, 1999, No. MWV050713).
26 The Court ordered pronouncement of judgment withheld and conditional and revocable release
27 granted for a period of 24 months, with terms and conditions. The circumstances surrounding the
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1 conviction are that on or about February 10, 1999, during a traffic stop by the California Highway
2 Patrol Department, Respondent gave false information to an officer.

3 h. On or about August 12, 1998, after pleading nolo contendere, Respondent was
4 convicted of one misdemeanor count of violating Penal Code section 148.9, subdivision (a)
5 [giving false information to a police officer], in the criminal proceeding entitled *The People of the*
6 *State of California v. Altheia L. Taylor* (Super. Ct. San Bernardino County, 1998, No.
7 MWV045302). The Court ordered pronouncement of judgment withheld and conditional and
8 revocable release granted for a period of 12 months, with terms and conditions. The
9 circumstances surrounding the conviction are that on or about May 11, 1998, Respondent
10 unlawfully, falsely represented, and identified herself as another person and as a fictitious person
11 to a police officer, upon a lawful detention and arrest, in order to evade the process of the court
12 and to evade proper identification by a police officer.

13 i. On or about November 26, 1990, after pleading guilty, Respondent was convicted of
14 one felony count of violating Penal Code section 278.5 [child detention with right to custody], in
15 the criminal proceeding entitled *The People of the State of California v. Altheia Lennette Taylor*
16 (Super. Ct. Los Angeles County, 1990, No. BA019579). The Court sentenced Respondent to
17 serve 151 days in Los Angeles County Jail and placed her on 36 months probation, with terms
18 and conditions. The circumstances surrounding the conviction are that on or about October 6,
19 1988, Respondent willfully and unlawfully, in the absence of a court order determining rights of
20 custody and visitation to a minor child, took, detained, concealed and enticed away the minor
21 child without good cause and with the intent to deprive the custody right of another person.

22 j. On or about November 12, 1987, after pleading guilty, Respondent was convicted of
23 one felony count of violating Penal Code section 451, subdivision (d) [arson of property], in the
24 criminal proceeding entitled *The People of the State of California v. Althea Lynette Taylor*
25 (Super. Ct. Los Angeles County, 1987, No. A474893). The Court sentenced Respondent to serve
26 one (1) day in Los Angeles County Jail and placed her on 36 months probation, with terms and
27 conditions. The circumstances surrounding the conviction are that on or about July 30, 1987,

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1 Respondent willfully, unlawfully and maliciously set fire to, burned and caused to be burned the
2 property of another.

3 **SECOND CAUSE FOR DENIAL OF APPLICATION**

4 **(Acts Involving Dishonesty, Fraud, or Deceit)**

5 10. Respondent's application is subject to denial under section 480, subdivision (a)(2), in
6 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
7 substantially benefit herself, or substantially injure another. Complainant refers to, and by this
8 reference incorporates, the allegations set forth above in paragraph 9, subparagraphs (a), (b), (e),
9 (f), and (g), inclusive, as though set forth fully

10 **THIRD CAUSE FOR DENIAL OF APPLICATION**

11 **(Acts Warranting Denial of Licensure)**

12 11. Respondent's application is subject to denial under section 4301, subdivision (p), and
13 section 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if
14 done by a licentiate of the business and profession, would be grounds for suspension or
15 revocation of her license as follows:

16 a. Respondent was convicted of crimes substantially related to the qualifications,
17 functions, or duties of a pharmacy technician which to a substantial degree evidence her present
18 or potential unfitness to perform the functions authorized by her license in a manner consistent
19 with the public health, safety, or welfare, in violation of sections 4301, subdivision (l), and 490,
20 in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,
21 and by this reference incorporates, the allegations set forth above in paragraph 9, subparagraphs
22 (a) through (j), inclusive, as though set forth fully.

23 b. Respondent committed acts involving moral turpitude, dishonesty, fraud, or deceit, in
24 violation of section 4301, subdivision (f). Complainant refers to, and by this reference
25 incorporates, the allegations set forth above in paragraph 9, subparagraphs (a), (b), (e), (f), and
26 (g), inclusive, inclusive, as though set forth fully.

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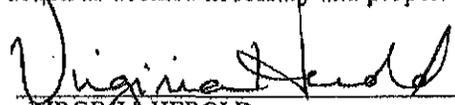
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PRAYER

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

1. Denying the application of Altheia Lenette Taylor also known as, Altheia Taylor for Registration as a Pharmacy Technician;
2. Taking such other and further action as deemed necessary and proper.

DATED: 3/1/13



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

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