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

11 In the Matter of the Statement of Issues Against:

Case No. 4676

12 **LUIS LAXA GARCIA**

WITHDRAWAL OF

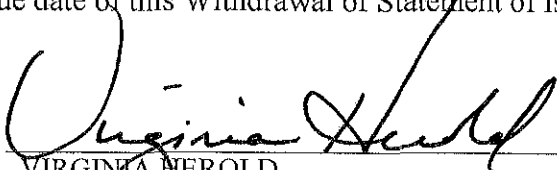
13 **Applicant for Pharmacy Technican License**

STATEMENT OF ISSUES

14 Respondent.
15

16 On March 7, 2014, Luis Laxa Garcia (Respondent) withdrew his appeal and request for a
17 hearing of the denial of his application for registration as a pharmacy technician by the Board of
18 Pharmacy. Accordingly, Statement of Issues No. 4676, filed against Respondent, is withdrawn
19 without prejudice and the denial of his application is affirmed. The earliest date on which
20 Respondent may reapply for a pharmacy technician registration is one year after the effective date
21 of the denial. That effective date is the issue date of this Withdrawal of Statement of Issues.

22
23 DATED: 4/4/14


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

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Statement of Issues Against: Case No. 4676
11 **LUIS LAXA GARCIA**
12 **Applicant for Pharmacy Technican License** **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 May 23, 2012, the Board of Pharmacy, Department of Consumer Affairs
20 received an Application for Registration as a Pharmacy Technician from Luis Laxa Garcia
21 (Respondent). On or about May 6, 2012, Respondent certified under penalty of perjury the
22 truthfulness of all statements, answers, and representations in the application. The Board denied
23 the application on or about January 30, 2013.

24
25 JURISDICTION

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

1 STATUTORY AND REGULATORY PROVISIONS

2 4. Section 4300, subdivision (c), of the Code states:

3 “(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
4 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
5 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
6 may issue the license subject to any terms or conditions not contrary to public policy”

7 5. Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is
8 defined to include, but not be limited to, any of the following:

9 (h) The administering to oneself, of any controlled substance, or the use of any dangerous
10 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
11 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
12 to the extent that the use impairs the ability of the person to conduct with safety to the public the
13 practice authorized by the license.

14 (k) The conviction of more than one misdemeanor or any felony involving the use,
15 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
16 combination of those substances.

17 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
18 of a licensee under this chapter.

19 6. Section 480 of the Code states, in pertinent part:

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

22 “(1) Been convicted of a crime. . . . Any action which a board is permitted to take following
23 the establishment of a conviction may be taken . . . irrespective of a subsequent order under the
24 provisions of Section 1203.4 of the Penal Code.

25 “(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially
26 benefit himself or another, or substantially injure another; or

27 “(3) Done any act which if done by a licentiate of the business or profession in question,
28 would be grounds for suspension or revocation of license.

1 "The board may deny a license pursuant to this subdivision only if the crime or act is
2 substantially related to the qualifications, functions or duties of the . . . [license]."

3 . . .

4 "(c) A board may deny a license regulated by this code on the ground that the applicant
5 knowingly made a false statement of fact required to be revealed in the application"

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

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

13
14
15 FIRST CAUSE FOR DENIAL OF APPLICATION

16 (Conviction of Substantially Related Crime(s))

17 8. Respondent's application is subject to denial under the following section(s) of the
18 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
19 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
20 crime or crimes, in that between in or about 1999 and in or about 2007, Respondent suffered a
21 total of four (4) criminal convictions. The convictions were entered as follows:

22 a. On or about June 14, 1999, in Alameda County Superior Court, Case No.
23 336084, Respondent was convicted of violating Vehicle Code section 23152, subdivision (a)
24 (Driving Under the Influence of Alcohol/Drug), a misdemeanor.

25 b. On or about March 8, 2001, in Alameda County Superior Court, Case No.
26 346302, Respondent was convicted of violating Vehicle Code section 23152, subdivision (a)
27 (Driving Under the Influence of Alcohol/Drug), a misdemeanor.

28 ///

1 c. On or about March 8, 2001, in Alameda County Superior Court, Case No.
2 345998, Respondent was convicted of violating Vehicle Code section 23152, subdivision (a)
3 (Driving Under the Influence of Alcohol/Drug), a misdemeanor.

4 d. On or about December 20, 2007, in Alameda County Superior Court, Case No.
5 H43876, Respondent was convicted of violating Vehicle Code section 23152, subdivision (a)
6 (Driving Under the Influence of Alcohol/Drug), a misdemeanor, with three prior convictions for
7 Driving Under the Influence (DUI), and a blood alcohol concentration of 0.15% or higher.

8
9 SECOND CAUSE FOR DENIAL OF APPLICATION

10 (Conviction of Alcohol-Involved Crimes)

11 9. Respondent's application is subject to denial under the following section(s) of the
12 Code: 480(a)(3) by reference to 4301(k); and/or 4300(c) by reference to 4301(k), in that, as
13 described in paragraph 8 above, Respondent was convicted of multiple misdemeanors involving
14 the consumption of an alcoholic beverage.

15
16 THIRD CAUSE FOR DENIAL OF APPLICATION

17 (Dangerous or Injurious Use of Alcohol)

18 10. Respondent's application is subject to denial under the following section(s) of the
19 Code: 480(a)(3) by reference to 4301(h); and/or 4300(c) by reference to 4301(h), in that, as
20 described in paragraph 8 above, Respondent made dangerous or injurious use of alcohol.

21
22 FOURTH CAUSE FOR DENIAL OF APPLICATION

23 (Unprofessional Conduct)

24 11. Respondent's application is subject to denial under the following section(s) of the
25 Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described
26 in paragraphs 8 through 10 above, Respondent engaged in unprofessional conduct.

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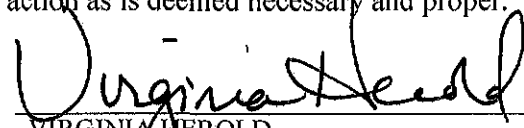
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PRAYER

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

1. Denying the application of Luis Laxa Garcia to be a pharmacy technician;
2. Taking such other and further action as is deemed necessary and proper.

DATED: 10/3/13



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

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