

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

In the Matter of the Statement of Issues
Against:

ELIZABETH MEDINA

Pharmacy Technician Registration Applicant

Respondent.

Case No. 4843

OAH No. 2014020032

DECISION AND ORDER

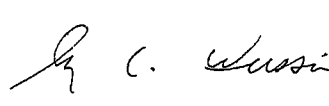
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 9, 2014.

It is so ORDERED on September 9, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

BEFORE THE
BOARD OF PHARMACY
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In the Matter of the Statement of Issues
Against:

ELIZABETH MEDINA,

Respondent.

Case No. 4843

OAH No. 2014020032

PROPOSED DECISION

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on July 15, 2014, in Oakland, California.

Complainant Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, was represented by Brett Kingsbury, Deputy Attorney General.

Respondent Elizabeth Medina was present and represented herself.

This matter was submitted for decision on July 15, 2014.

FACTUAL FINDINGS

1. Complainant Virginia Herold made this statement of issues in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
2. On November 5, 2012, the Board received respondent Elizabeth Medina's application for registration as a pharmacy technician. The Board denied her application on May 6, 2013, and respondent appealed.
3. On December 13, 2006, respondent was convicted in the Superior Court of California, County of Napa, pursuant to a plea of no contest, of violating Napa Municipal Code section 9.70.030 (hosting party where alcohol is served to minors), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for one year.

The facts and circumstances of the offense were not established. The offense occurred on October 15, 2006, at respondent's 21st birthday party.

4. On October 24, 2007, respondent was convicted in the Superior Court of California, County of Sacramento, pursuant to a plea of guilty, of violating Vehicle Code section 23103 (alcohol-related reckless driving), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for a period of three years and ordered to serve nine days in jail or pay fines.

The facts and circumstances of the offense were not established. The offense occurred on September 17, 2007.

5. On March 28, 2008, respondent was convicted in the Superior Court of California, County of Placer, pursuant to a plea of guilty, of violating Vehicle Code section 14601.5 (driving with a suspended license), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for a period of three years.

The facts and circumstances of the offense were not established. The offense occurred on February 25, 2008.

6. On April 18, 2008, respondent was convicted in the Superior Court of California, County of Napa, pursuant to a plea of guilty, of violating Vehicle Code section 14601, subdivision (a) (driving with a suspended license), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for a period of two years, on terms and conditions which included serving five days in jail.

The facts and circumstances of the offense were not established. The offense occurred on March 19, 2008.

7. On April 11, 2011, respondent was convicted in the Superior Court of California, County of Sacramento, pursuant to a plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol content of 0.08 percent or higher), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for a period of four years, on terms and conditions which included serving 10 days in jail and enrolling in a second offender's program.

The facts and circumstances are that on March 14, 2011, respondent drove after drinking alcohol. Her blood alcohol content was measured at 0.13 percent. She almost collided with a California Highway Patrol vehicle.

8. On March 12, 2013, respondent was convicted in the Superior Court of California, County of Napa, pursuant to a plea of guilty, of violating Vehicle Code sections 23152, subdivision (a) (driving with a blood alcohol content of 0.08 percent or higher, with a prior DUI) and 14601.2, subdivision (a) (driving with a license suspended for prior DUI), both misdemeanors. Imposition of sentence was suspended and respondent was placed on

formal probation for a period of three years, on terms and conditions which included serving 240 days in jail and completing an 18-month drunk driver program. On January 31, 2014, respondent's probation was revoked and respondent was ordered to serve 20 days in jail.

The facts and circumstances of the offense are that on March 2, 2013, respondent drove after consuming alcohol. Respondent was observed driving erratically. Her blood alcohol content was tested at 0.22 percent.

9. On January 31, 2014, respondent was convicted in the Superior Court of California, County of Napa, pursuant to a plea of nolo contendere, of violating Penal Code section 647, subdivision (f) (public intoxication), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for a period of three years, on terms and conditions which included serving 10 days in jail.

The facts and circumstances of the offense were not established. The offense occurred on January 26, 2014.

10. On January 31, 2014, respondent was convicted in the Superior Court of California, County of Napa, pursuant to a plea of nolo contendere, of violating Penal Code section 242 (battery), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for a period of three years, on terms and conditions which included serving 10 days in jail.

The facts and circumstances of the offense were not established. The offense occurred on December 5, 2013.

11. Respondent acknowledged her criminal history, but tended to minimize the conduct involved. She stated that she "made mistakes," but that she was young, and the mistakes were in her past. She does not consider herself an alcoholic. She stated that she has never drunk to excess and has never taken drugs, and that she never drank on the job. Respondent complained of her "bad luck" and stated that other people do the "same stuff" that she does and still have careers. She expressed frustration with the Board for holding her past against her.

12. Respondent is currently on criminal probation. She was cited in June 2014 for use of alcohol, a violation of her probation.

13. Respondent presented evidence that she was about to complete a court-ordered 18-month drunk driver program, and that she has started a 16-week adult outpatient rehabilitation program through Napa County. Respondent previously completed a four-month rehabilitation program. She has attended some Alcoholics Anonymous meetings in the past, but she did not feel like she needed to be there. She plans on returning to A.A. after she completes the rehabilitation program. Respondent most recently drank two weeks prior to the hearing. She had three beers and did not drive. Respondent attributed her continued

drinking to her sadness over her lack of a career and to a violent domestic relationship which recently ended. Respondent stated that she is "trying not to drink at all."

14. Respondent works for Don Sebastiani & Sons, a winery. She labels and ships wine. Respondent has worked there for seven months and oversees four employees. Respondent's employer is unaware of her criminal record.

15. Respondent testified that she is licensed by the Bureau of Security and Investigative Services as a security guard. She has worked as a guard in the past.

16. In an undated letter, Jeff Barnes, respondent's counselor at the 18-month drunk driver program, writes that respondent has been an exemplary participant in the program. Barnes believes that respondent has made significant progress and has matured during the program. He believes that respondent deserves an opportunity to pursue a profession that she has passion for.

17. In an undated letter, Michelle Vogen writes that she met respondent in August 2013 at a drunk driving program. Vogen writes that respondent is committed to the program and actively participates. Respondent has expressed to Vogen her strong desire to work in the pharmaceutical field and to make whatever changes she needs. Vogen believes that respondent sincerely wishes to make the right decisions.

18. In a letter dated July 14, 2014, Marie Brown, Distribution Account Administrator at Don Sebastiani & Sons, writes that respondent has been hardworking, energetic, and a quick learner. Brown states that respondent would make an outstanding employee to any company.

19. In a letter dated July 14, 2014, Dontae Ellis, Order Fulfillment Processor at Don Sebastiani & Sons, writes that respondent has been a hard-working temporary employee. Ellis adds that she has a great personality and works well with others. Ellis believes that respondent would be a good pharmacy technician.

LEGAL CONCLUSIONS

1. Business and Professions Code sections 480, subdivision (a)(1), 4300, subdivision (c), and 4301, subdivision (1), provide that the Board may deny an application for a pharmacy technician registration if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of a pharmacy technician. A crime is substantially related to the qualifications, functions or duties of a licensee "if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by her license or registration in a manner consistent with the public health, safety or welfare." (Cal. Code Regs., tit. 16, § 1770.) Respondent's nine misdemeanor convictions are all substantially related to the qualifications, functions or duties of a pharmacy technician and each provides cause for denial of respondent's application.

Therefore, cause exists to deny respondent's application in light of the matters set forth in Findings 3 through 10.

2. Business and Professions Code sections 4300, subdivision (c), and 4301, subdivision (k), provide that the Board may deny an application for a pharmacy technician license if the applicant has been convicted of more than one misdemeanor involving the consumption of alcohol. Cause exists to deny respondent's application in light of the matters set forth in Findings 3, 4, 7, 8, and 9.


3. Business and Professions Code sections 4300, subdivision (c), and 4301, subdivision (h), provide that the Board may deny an application for a pharmacy technician license if the applicant has engaged in unprofessional conduct by using alcohol in a dangerous and injurious manner. Cause exists to deny respondent's application in light of the matters set forth in Findings 3, 4, 7, 8, and 9.

4. The Board has set forth criteria for evaluating the rehabilitation of an applicant for a licensure. (Cal. Code Regs., tit. 16, § 1769.) These criteria include the nature and severity of the offenses, the time that has elapsed, whether the applicant has complied with the terms of probations, and evidence of rehabilitation. Respondent has suffered nine misdemeanor convictions during a relatively short time period, including two convictions earlier this year. Many offenses occurred while she was on probation for previous offenses. Respondent remains on probation until 2017. Respondent's convictions demonstrate a pattern of excessive alcohol consumption and poor judgment. Respondent does not acknowledge the severity of her criminal record and minimizes her criminal conduct. Although respondent has enrolled in a rehabilitation program, she does not recognize that she has a drinking problem and has not been able to abstain from alcohol consumption, even when required by the terms of probation. Respondent has not established sufficient rehabilitation to warrant licensure. It would be against the public interest to issue respondent a pharmacy technician registration.

ORDER

The application of respondent Elizabeth Medina for registration as a pharmacy technician is denied.

DATED: August 6, 2014


KAREN REICHMANN
Administrative Law Judge
Office of Administrative Hearings

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7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Statement
12 of Issues Against:

Case No. 4843

13 **ELIZABETH MEDINA**
14 **Applicant for Pharmacy Technician License**
15 **Respondent.**

**FIRST AMENDED STATEMENT OF
ISSUES**

16
17 Complainant alleges:

18 PARTIES

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

22 2. On or about November 5, 2012, the Board of Pharmacy ("Board"), Department of
23 Consumer Affairs received an Application for Registration as a Pharmacy Technician from
24 Elizabeth Medina ("Respondent"). On or about November 1, 2012, Respondent certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on May 6, 2013.

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28 ///

JURISDICTION

1
2 3. This First Amended Statement of Issues is brought before the Board, Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code ("Code") unless otherwise indicated.

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

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

10 5. Section 4301 of the Code provides, in pertinent part, that "unprofessional conduct" is
11 defined to include, but not limited to, any of the following:

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

17 ". . . .

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

21 "(l) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or

1 dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
4 of this provision. The board may take action when the time for appeal has elapsed, or the
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
9 indictment.

10"

11 6. Section 480 of the Code states, in pertinent part, that a board may deny an application
12 for licensure if the applicant has been convicted of a crime substantially related to the
13 qualifications, duties, or functions of a licensee.

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

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

20 FIRST CAUSE FOR DENIAL OF LICENSE

21 (Conviction of Substantially Related Crime)

22 8. Respondent's application is subject to denial under Code sections 480, 4300,
23 subdivision (c), and 4301, subdivision (l), as interpreted in California Code of Regulations, title
24 16, section 1770, in that Respondent was convicted of a crime substantially related to the
25 qualifications, functions, or duties of a pharmacy technician. Specifically:

26 a. On or about December 13, 2006, in the case entitled *The People of the State of*
27 *California v. Elizabeth Medina*, in Napa County Superior Court Case No. CR132340, Respondent
28 was convicted of violating Napa Municipal Code section 9.70.303 [Unlawful Gathering when

1 Alcohol is Served to Minors]. Respondent was sentenced to one year probation and ordered to
2 pay court fines.

3 b. On or about October 24, 2007, in the case entitled *The People of the State of*
4 *California v. Elizabeth Medina*, Sacramento County Superior Court Case No. 07T05042,
5 Respondent pled guilty to a violation of Vehicle Code section 23103 [Reckless Driving – Alcohol
6 Related]. Respondent was placed on three (3) years probation and ordered to pay court fines.

7 c. On or about March 28, 2008, in the case entitled *The People of the State of California*
8 *v. Elizabeth Medina*, Placer County Superior Court Case No. 62078666, Respondent pled guilty
9 to a misdemeanor violation of Vehicle Code section 14601.5 [Driving While License Suspended].
10 Respondent was placed on three (3) years probation.

11 d. On or about April 18, 2008, in the case entitled *The People of the State of California*
12 *v. Elizabeth Medina*, Napa County Superior Court Case No. CR 140056, Respondent pled guilty
13 to a violation of Vehicle Code section 14601(a) [Driving When Driving Privileges Suspended], a
14 misdemeanor. Respondent was sentenced to two (2) years probation and was ordered to serve
15 five (5) days in jail and pay court fines.

16 e. On or about April 11, 2011, in the case entitled *The People of the State of California*
17 *v. Elizabeth Medina*, Sacramento County Superior Court Case No. 11T02097, Respondent pled
18 no contest to a misdemeanor violation of Vehicle Code section 23152(b) [Driving With a Blood
19 Alcohol Greater than 0.08%], with one prior. Respondent was placed on four (4) years probation
20 and was ordered to serve 10 days in jail, enroll and complete a Multiple Offender Program and
21 pay court fines. The circumstances surrounding this conviction are that on March 14, 2011,
22 Respondent narrowly missed a high speed (70 mph) collision with a California Highway Patrol
23 ("CHP") vehicle, in Sacramento, California. Her vehicle was also observed weaving from one
24 lane to the next, at which point an enforcement stop was made. Upon contact, Respondent
25 displayed all indications of alcohol intoxication and failed roadside field sobriety testing. Her
26 preliminary alcohol screening test revealed blood alcohol levels of 0.13% and 0.14%.

27 f. On or about March 12, 2013, in the case entitled *The People of the State of California*
28 *v. Elizabeth Medina*, Napa County Superior Court, Case No. CR165333, Respondent pled guilty

1 to a misdemeanor violation of Vehicle Code section 23152(a) [Driving While Under the Influence
2 of Alcohol], a misdemeanor, and a violation of Vehicle Code section 14601.2(a) [Driving When
3 Privilege Suspended For DUI + Priors], a misdemeanor. Respondent was sentenced to five (5)
4 years formal probation and ordered to pay court fines. The circumstances surrounding this
5 conviction are that on March 2, 2013, Respondent was stopped by the Napa Sheriff's Department
6 for weaving between lanes. Upon contact, Respondent displayed all indications of alcohol
7 intoxication and failed roadside field sobriety testing. Her preliminary alcohol screening test
8 revealed blood alcohol levels of 0.22% and 0.22%. She refused additional chemical testing as
9 required by Vehicle Code section 23578.

10 g. On or about January 31, 2014, in the case entitled *People v. Medina, Elizabeth*, No.
11 CR169432, in the Superior Court of California for the County of Napa, Respondent pled no
12 contest to and was convicted of violating California Penal Code section 647(f) [public
13 intoxication], a misdemeanor. The conduct underlying the offense occurred on January 26, 2014.

14 h. On or about January 31, 2014, in the case entitled *People v. Medina, Elizabeth*, No.
15 CR168888, in the Superior Court of California for the County of Napa, Respondent pled no
16 contest to and was convicted of violating California Penal Code 242/243(a) [battery], a
17 misdemeanor. The conduct underlying the offense occurred on December 5, 2013, and involved
18 Respondent's use of alcohol.

19 SECOND CAUSE FOR DENIAL OF LICENSE

20 (Multiple Alcohol Related Convictions)

21 9. Respondent's application is subject to denial under Code sections 4300, subdivision
22 (c), and 4301, subdivision (k), in that Respondent was convicted of more than one misdemeanor
23 or any felony involving the use, consumption, or self administration of any dangerous drug or
24 alcoholic beverage, or a combination thereof. The circumstances are described above in the First
25 Cause for Denial of License.

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1 THIRD CAUSE FOR DENIAL OF LICENSE

2 (Dangerous or Injurious Use of Alcohol)

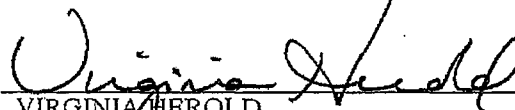
3 10. Respondent's application is subject to denial under following Code section 4300,
4 subdivision (c), and 4301, subdivision (h), in that Respondent used a dangerous drug or alcoholic
5 beverage to an extent or in a manner dangerous or injurious to herself, another person, or the
6 public. The circumstances are described above in the First Cause for Denial of License.

7 PRAYER

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

- 10 1. Denying the application of Elizabeth Medina for registration as a Pharmacy
11 Technician; and
12 2. Taking such other and further action as is deemed necessary and proper.

13 DATED: 5/2/14

14 
15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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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
12 Against:

Case No. 4843

13 **ELIZABETH MEDINA**

STATEMENT OF ISSUES

14 **Applicant for Pharmacy Technician License**

15 Respondent.

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 November 5, 2012, the Board of Pharmacy, Department of Consumer
22 Affairs received an Application for Registration as a Pharmacy Technician from Elizabeth
23 Medina ("Respondent"). On or about November 1, 2012, Elizabeth Medina certified under
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on May 6, 2013.

26 JURISDICTION

27 3. This Statement of Issues is brought before the Board of Pharmacy ("Board"),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 4300, subdivision (c), 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 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 . . .

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

18 "(l) The conviction of a crime substantially related to the qualifications, functions, and
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
21 substances or of a violation of the statutes of this state regulating controlled substances or
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
24 The board may inquire into the circumstances surrounding the commission of the crime, in order
25 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or
26 dangerous drugs, to determine if the conviction is of an offense substantially related to the
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
28 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning

1 of this provision. The board may take action when the time for appeal has elapsed, or the
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
6 indictment.

7 ...”

8 6. Section 480 of the Code states:

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

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

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

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

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

24 ...”

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

26 “For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

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 LICENSE

4 (Conviction of Substantially Related Crimes)

5 8. Respondent’s application is subject to denial under the following Code sections:
6 480(a)(1); 480(a)(3), by reference to 4301(1), and/or 4300(c) by reference to California Code of
7 Regulations, title 16, section 1770, for conviction of substantially related crimes, in that from
8 2006 to 2013 Respondent had the following criminal convictions:

9 a. On or about December 31, 2006, in Napa County Superior Court Case No.
10 CR132340, Respondent was convicted of violating Napa Municipal Code section 9.70.303
11 [Unlawful Gathering when Alcohol is Served to Minors]. Respondent was sentenced to one year
12 probation and ordered to pay court fines.

13 b. On or about October 24, 2007, in a criminal matter entitled *The People of the State of*
14 *California v. Elizabeth Medina*, Sacramento County Superior Court Case No. 07T05042,
15 Respondent pled guilty to a violation of Vehicle Code section 23103 [Reckless Driving – Alcohol
16 Related]. Respondent was placed on three (3) years probation and ordered to pay court fines.

17 c. On or about March 28, 2008, in a criminal matter entitled *The People of the State of*
18 *California v. Elizabeth Medina*, Placer County Superior Court Case No. 62078666, Respondent
19 pled guilty to a misdemeanor violation of Vehicle Code section 14601.5 [Driving While License
20 Suspended]. Respondent was placed on three (3) years probation.

21 d. On or about April 18, 2008, in a criminal matter entitled *The People of the State of*
22 *California v. Elizabeth Medina*, Napa County Superior Court Case No. CR 140056, Respondent
23 pled guilty to a violation of Vehicle Code section 14601(a) [Driving When Driving Privileges
24 Suspended], a misdemeanor. Respondent was sentenced to two (2) years probation and was
25 ordered to serve five (5) days in jail and pay court fines.

26 e. On or about April 11, 2011, in a criminal matter entitled *The People of the State of*
27 *California v. Elizabeth Medina*, Sacramento County Superior Court Case No. 11T02097,
28 Respondent pled no contest to a misdemeanor violation of Vehicle Code section 23152(b)

1 [Driving With a Blood Alcohol Greater than 0.08%], with one prior. Respondent was placed on
2 four (4) years probation and was ordered to serve 10 days in jail, enroll and complete a Multiple
3 Offender Drinker Driving Program and pay court fines. The circumstances surrounding this
4 conviction are that on March 14, 2011, Respondent narrowly missed a high speed (70 mph)
5 collision with a California Highway Patrol ("CHP") vehicle, in Sacramento, California. Her
6 vehicle was also observed weaving from one lane to the next, at which point an enforcement stop
7 was made. Upon contact, Respondent displayed all indications of alcohol intoxication and failed
8 roadside field sobriety testing. Her preliminary alcohol screening test revealed blood alcohol
9 levels of 0.13% and 0.14%.

10 f. On or about March 12, 2013, in a criminal matter entitled *The People of the State of*
11 *California v. Elizabeth Medina*, Napa County Superior Court, Case No. CR165333, Respondent
12 pled guilty to a misdemeanor violation of Vehicle Code section 23152(a) [Driving While Under
13 the Influence of Alcohol], a misdemeanor and a violation of Vehicle Code section 14601.2(a)
14 [Driving When Privilege Suspended For DUI + Priors], a misdemeanor. Respondent was
15 sentenced to five (5) years formal probation and ordered to pay court fines. The circumstances
16 surrounding this conviction are that on March 2, 2013, Respondent was stopped by the Napa
17 Sheriff's Department for weaving between lanes. Upon contact, Respondent displayed all
18 indications of alcohol intoxication and failed roadside field sobriety testing. Her preliminary
19 alcohol screening test revealed blood alcohol levels of 0.22% and 0.22%. She refused additional
20 chemical testing as required by Vehicle Code section 23578.

21 SECOND CAUSE FOR DENIAL OF LICENSE

22 (Multiple Alcohol Related Convictions)

23 9. Respondent's application is subject to denial under the following Code sections:
24 480(a)(1); 480(a)(3), by reference to 4300(k) and/or 4300(c) by reference to California Code of
25 Regulations, title 16, section 1770, for multiple alcohol related convictions, as set forth above in
26 paragraph 8, subsections (e) and (f).

27 ///

28 ///

1 THIRD CAUSE FOR DENIAL OF LICENSE

2 (Dangerous or Injurious Use of Alcohol)

3 10. Respondent's application is subject to denial under the following Code sections:
4 480(a)(3), by reference to 4301(h); and/or 4300 (c), by reference to 4301(h), in that, as described
5 in paragraph 8 above, Respondent engaged in conduct that was a dangerous or injurious use of
6 alcohol.

7 FOURTH CAUSE FOR DENIAL OF LICENSE

8 (Unprofessional Conduct)

9 11. Respondent's application is subject to denial under the following Code sections:
10 480(a)(3) by reference to 4301; and/or 4300(c), by reference to 4301, in that, as described in
11 paragraphs 8, 9 and 10 above, Respondent has engaged in unprofessional conduct.

12 PRAYER

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

- 15 1. Denying the application of Elizabeth Medina to be a Pharmacy Technician; and
16 2. Taking such other and further action as deemed necessary and proper.

17 DATED: _____

18 10/21/13

19 Virginia Herold

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

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