

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

In the Matter of the Statement of Issues Against:

ANA MARISOL QUINTANA,

Respondent.

Case No. 5822

OAH No. 2017030244

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 at 5:00 p.m. on November 1, 2017.

It is so ORDERED on October 2, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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PROPOSED DECISION

Howard W. Cohen, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on August 2, 2017, in Los Angeles.

Leslie A. Walden, Deputy Attorney General, represented complainant Virginia Herold, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Ana Marisol Quintana appeared and represented herself.

Oral and documentary evidence was received. The record was closed and the matter was submitted on August 2, 2017.

FACTUAL FINDINGS

Jurisdiction

1. On October 29, 2015, respondent filed an application with the Board for a pharmacy technician registration. The Board denied the application on March 25, 2016. By letter dated April 4, 2016, respondent appealed the denial of her registration application.

2. On February 27, 2017, complainant filed the Statement of Issues in her official capacity. Respondent timely filed a notice of defense.

Respondent's Convictions

3. On February 10, 2011, in the Superior Court of California, County of Los Angeles, Case No. 28262KQ-1999, respondent pled nolo contendere to and was convicted of violating Vehicle Code section 40508, subdivision (a) (failure to appear, after written promise,

on Vehicle Code section 12500 infraction (driving without a license)), a misdemeanor. The court sentenced respondent to serve five days in county jail, with credit for five days served, ordered her to pay a fine of \$100 plus penalty assessments, and suspended the fine.

4. The circumstances underlying the conviction are that on May 2, 2009, respondent was stopped by a California Highway Patrol officer, who cited her for driving without a license. Respondent did not appear in court on the date specified in the citation.

5. Respondent completed her sentence and complied with the court's order.

6. On March 17, 2011, in the Superior Court of California, County of Los Angeles, Case No. SA076666, respondent pled nolo contendere to and was convicted of violating Penal Code section 459 (burglary from a motor vehicle, second degree), a felony, the court finding a factual basis for the plea. The court suspended imposition of sentence and placed respondent on formal probation for three years under terms and conditions including that respondent serve 38 days in county jail, less credit for 38 days, pay fines and assessments totaling \$108, pay a restitution fine of \$200 and make restitution to the victim in the sum of \$20, and enroll in and complete 60 Narcotics Anonymous meetings.

7. The circumstances underlying the conviction are that, on February 6, 2011, respondent and another individual broke into a parked car and removed property from the car.

8. Respondent satisfied the terms of probation, which the court terminated on March 7, 2014. On July 15, 2014, the court granted respondent's petition under Penal Code section 1203.4, reduced the felony count to a misdemeanor under Penal Code section 17, subdivision (a), set aside the conviction, entered a plea of not guilty, and dismissed the case.

Respondent's Registration Application

9. On her October 29, 2015, pharmacy technician registration application, respondent certified under penalty of perjury the truth and accuracy of all statements and answers she made in the application.

10. Respondent, however, failed to disclose on her application either of her criminal convictions. The application included the question:

Have you ever been convicted of any crime in any state, the USA and its territories, military court or foreign country? Check the box next to "yes" if you have ever been convicted or plead [sic] guilty to any crime. "Conviction" includes a plea of no contest and any conviction that has been set aside or deferred pursuant to Sections 1210.1 or 1203.4 of the Penal Code, including infractions, misdemeanor[s], and felonies.

(Ex. 2, p. 2.) On respondent's application, the box next to "No" is checked.

Duties of Pharmacy Technicians

11. Michael Boluro-Ajayi, an inspector for the Board, testified about the duties of pharmacy technicians. Boluro-Ajayi, a licensed pharmacist, has worked for the Board for four years, inspecting pharmacies to ensure compliance with laws and regulations. He worked as a pharmacist for Walmart; he also worked as an intern at Rite Aid and Walgreens. He has supervised pharmacy technicians and is familiar with their duties and functions. Boluro-Ajayi testified that pharmacy technicians must know and comply with pharmacy law. They perform non-discretionary duties. They enter data, stock medicines, perform prescriptions intake, meet with patients and provide medications, charge patients, attach labels, and keep records. They have complete access to all medicines in the pharmacy and to patient records and personal information, so honesty and integrity are critical character requirements.

Rehabilitation

12. In her April 4, 2016, appeal letter to the Board, respondent wrote that for years she made:

a poor choice of friends and decision making, which I regret fully every day of my life. Now I am older and wiser and I know I made a life changing mistake. I have taken full responsibility for my actions and have paid my dues to the society. . . . I have worked full time since November 2014 and [am] going to school to complete the Pharmacy Technician program at American Career College. . . . I want to become a positive member of society and I know it requires hard work. I have completed over 100 hours of externship and the site is considering hiring me. I sincerely apologize for my actions and hope the board can allow me to pursue my career.

(Ex. 4.)

13. Respondent took responsibility for the actions leading to her convictions and testified that her past is very embarrassing to her. With respect to her burglary conviction, respondent testified that she no longer associates with the other person involved in the crime or with anyone else from that period in her life; "I cut them off," she testified, having "paid the price" for associating with them. With respect to failing to appear in court for a Vehicle Code infraction, respondent testified that she had to travel to visit her sister, who had been convicted of a crime and was about to begin serving a lengthy prison sentence. In view of other evidence admitted at hearing, this mitigation testimony is persuasive.

14. In mitigation of her failure to disclose her convictions on her registration application, respondent testified that Martha Salazar, her program coordinator at American Career College, completed the application for her and checked off the boxes in response to the application questions. Respondent told Ms. Salazar about her convictions and showed her the expungement paperwork regarding her burglary conviction. Ms. Salazar told respondent not to

disclose her convictions or the record of expungement. Respondent understands that following her advisor's recommendation makes it appear that she was lying. She readily acknowledges that she should have taken responsibility for the application process and not relied on her college advisor to determine her answers.

15. The evidence convincingly demonstrates that respondent has overcome numerous obstacles and taken significant steps to change her life. Her mother and other family members discouraged her from attempting to improve herself when she was younger. Her siblings became involved in gangs and drugs, but she did not. She is the first in her family to graduate from high school and to attend and graduate from college, and she is very proud of her accomplishments. She has been a homeowner for three years; she takes care of her mother, who was only recently diagnosed with bipolar disorder and who lives with respondent.

16. Respondent is active in her community; she volunteers regularly to raise funds for Guide Dogs of America and for the Special Olympics, and donates money to those organizations.

17. Respondent has worked as a pharmacy cashier at a Walgreen's store for over a year, having disclosed her convictions to her employer and having worked there as an extern. She loves her job and would like to work as a licensed pharmacy technician. She excelled academically in the Pharmacy Technician program at American Career College, graduating in May 2016, and she passed the Pharmacy Technician Certification Exam on July 14, 2017.

18. Respondent offered numerous character reference letters from supervisors, colleagues, and friends. All the authors are aware of respondent's convictions and of her application for a pharmacy technician registration. Among the letters:

a. Brenda Banet, Office Manager of Oasis of Hollywood, a not-for-profit youth outreach organization, wrote that she has known respondent since respondent was 11 years old. While in junior high and high school, respondent volunteered for Oasis of Hollywood, even during Christmas break, helping families in need. "While this is exceptional behavior, the fact is that this type of action came from a girl with siblings in jail and in gangs." (Ex. B, p. 1.) Ms. Banet wrote that, when respondent got into trouble with the law after graduating from high school, she

got through it with humility and grace. She completed every level of accountability. She did not get angry or lash out or repeat momentarily bad behavior. She did the exact opposite. She went to college. She maintained straight "A"'s, perfect attendance and was a leader in her classes and to her classmates. She has a beautiful home and invites people with no place to go on Thanksgiving to her home. [¶] This young woman has come from less than nothing. Her challenges were more than many . . . She is a hard worker, helps rescue dogs and helps her younger sister with her 3 kids. She is even taking care of her mother, [who] is indeed ill and in need of daily medi[c]ations. [¶] . . . It is a

privil[e]ge to know her, watch her grow into the beautiful, talented young lady she has become

(Ibid.)

b. Marjorie Matilla Valderrama, Pharm.D., a licensed pharmacist since 2007 and a pharmacist-in-charge for six years, wrote that she would not hesitate to hire respondent as a pharmacy technician. Respondent “has demonstrated the utmost capability in knowledge and care to become a certified pharmacy technician. . . . [S]he was able to pass the Pharmacy Technician Certification Board examination. . . . She shows compassion and genuine concern for the patients” and “works tirelessly to resolve insurance issues to assure that the patient’s issues have been resolved or acknowledged.” (Ex. B, p. 2.) Respondent “is respected by her peers and leaders at work. [¶] Because of her past, [respondent’s] decision to be part of a respected career in pharmacy has been a humbling experience that I know she does not take for granted.” *(Ibid.)*

c. Tiffany Wong, a pharmacy manager at a Walgreen’s store, wrote that respondent has been an “exemplary employee” providing excellent service, and that she “is an upstanding and moral person.” (Ex. B, p. 3.)

d. Sharona Attarchi, a pharmacy manager at a Walgreen’s store where respondent was a pharmacy technician extern for four months, wrote that respondent was a quick learner and very committed to her externship, working for six hours every day without pay before going to work at her paying job for eight hours. She recommended that Ms. Wong, at another Walgreen’s store, hire respondent. Attarchi wrote that respondent disclosed her convictions and discussed her poor decisions with evident regret. Attarchi believes respondent has “turned her life around” and “is a good person that has a great work ethic . . . and has the motivation and determination to make a better life for herself.” (Ex. B, p. 4.)

e. Hussai Nadeem, a Senior Certified Pharmacy Technician at the Walgreen’s store where respondent works, wrote that respondent “is compassionate towards customers, professional, responsible, and dedicated to her family.” (Ex. B, p. 5.) Ruby Acuna, another co-worker, wrote that respondent is thoughtful, caring, and reliable, and “an amazing person. She is someone who can be counted on both at work and in friendship. She takes care of everyone around her without complaint. I am better for having known her” (Ex. B, p. 6.)

f. Joy W. Doerzapf, a friend of respondent’s for six years, wrote that she met respondent “after her short-lived life of crime and have known her to be totally remorseful and changed by that life altering experience. I can say with total certainty that she will never reoffend. . . . [Respondent] doesn’t drink or use drugs and has been dedicated to making herself and her life better.” (Ex. B, p. 9.)

19. Respondent has made impressive efforts to overcome difficult circumstances and to improve herself and contribute to her community. Respondent submitted persuasive mitigation and rehabilitation evidence regarding all the charges alleged in the Statement of

Issues. While respondent did not disclose her convictions on her license application, she appears to sincerely regret deferring to her counselor's advice and not taking more responsibility for the application process. And although she confessed to, and evidenced, embarrassment about her criminal convictions, respondent readily admitted to having committed the acts underlying both convictions. She has disclosed her convictions to her employers and colleagues. She has disassociated herself from her past life, diligently furthered her education, and excelled at school in preparation for licensure despite a lack of any support from her family. She has shown great dedication to pursuing her career while working 14-hour days during her externship and at her current pharmacy position. She cares for her mother and remains involved in volunteer community activities. In sum, respondent has established that the public interest would be protected if she were granted a probationary license.

LEGAL CONCLUSIONS

1. The Board's highest priority is protection of the public. (Bus. & Prof. Code, § 4001.1.)¹ The Board may deny a license application if the applicant has done any act that would be grounds to suspend or revoke the license of a licentiate. (§ 490, subd. (a)(3).)
2. The Board may deny an application for licensure if the applicant has been convicted of a crime; done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit the applicant; or done any act that, if done by a licentiate of the occupation in question, would be grounds for suspension or revocation of the license, so long as the act or crime is substantially related to the qualifications, functions, or duties of the business or profession for which an application is made. (§ 480, subd. (a)(1), (2), & (3).) The Board may not deny a license solely on the basis of a conviction that has been dismissed under Penal Code 1203.4. (§ 480, subd. (c).) A crime or act is substantially related to the qualifications, functions, or duties of a licensee or registrant if 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.)
3. The Board may deny licensure on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application. (§ 480, subd. (d).)
4. Cause exists to deny respondent's pharmacy technician registration application for conviction of crimes substantially related to the qualifications, functions, or duties of a licensee, under section 480, subdivision (a)(1), and California Code of Regulations, title 16, section 1770, based on the matters set forth in Factual Findings 3 through 8. Respondent was convicted of burglary, a crime of dishonesty involving acts dangerous to others and to the public, which is substantially related to the qualifications, functions, or duties of a licensee.

¹ All further statutory references are to the Business and Professions Code.

5. Cause exists to deny respondent's pharmacy technician registration application for acts involving dishonesty, fraud, or deceit, under sections 480, subdivision (a)(2), and 4301, subdivision (f), based on respondent's conviction for burglary, as set forth in Factual Findings 6 through 8.

6. Cause exists to deny respondent's pharmacy technician registration application for acts warranting denial of licensure, under section 480, subdivision (a)(3), in that respondent was convicted of crimes and committed acts that, if done by a licentiate, would be grounds for suspension or revocation of her license, as set forth in Factual Findings 3 through 8.

7. Cause exists to deny respondent's pharmacy technician registration application for knowingly making a false statement of fact, under section 480, subdivision (d), based on respondent's failure to disclose her convictions on her pharmacy technician registration application, as set forth in Factual Findings 9 through 11.

8. The Board has adopted Disciplinary Guidelines (Rev. 10/2007), incorporated by reference at California Code of Regulations, title 16, section 1760, for use in reaching a decision on a disciplinary action under the Administrative Procedure Act. The Disciplinary Guidelines provide that the Board, in evaluating an individual's rehabilitation and present eligibility for a license, is to consider criteria including actual or potential harm to the public, the nature and severity of the acts, offenses, and crimes under consideration, aggravating, mitigating, and rehabilitation evidence, compliance with terms of sentences and probation, overall criminal record, evidence of conviction dismissals under Penal Code section 1203.4, time passed since the acts or offenses occurred, whether the conduct was intentional or negligent, and financial benefit to the applicant from the misconduct.

9. Respondent has satisfied the relevant regulatory criteria for mitigation and rehabilitation, as set forth in Factual Findings 12 through 19. In view of the record as a whole, the accompanying order is appropriate at this time to protect the public.

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ORDER

Respondent Ana Marisol Quintana's application for a pharmacy technician license is granted. Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation stayed, and respondent placed on probation for three years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

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3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear at two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of her probation. Failure to cooperate shall be considered a violation of probation.

5. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 5822 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5822 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 5822 in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number 5822 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement or criterion for employment, whether the respondent is considered an employee, independent contractor or volunteer.

6. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

7. Status of License

Respondent shall, at all times while on probation, maintain an active, current pharmacy technician license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender her pharmacy technician license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

9. Notification of a Change in Name, Residence Address, Mailing Address or Employment

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the board in writing within ten (10) days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

10. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 40 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician for a minimum of 40 hours per calendar month in California, respondent must notify the board in writing within ten (10) days of cessation of work and must further notify the board in writing within ten (10) days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

"Cessation of work" means calendar month during which respondent is not working for at least 40 hours as a pharmacy technician, as defined in Business and Professions Code section 4115. "Resumption of work" means any calendar month during which respondent is working as a pharmacy technician for at least 40 hours as a pharmacy technician as defined by Business and Professions Code section 4115.

11. Violation of Probation

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

12. Completion of Probation

Upon written notice by the board indicating successful completion of probation, respondent's pharmacy technician license will be fully restored.

DATED: August 24, 2017

DocuSigned by:

Howard W. Cohen

HOWARD W. COHEN
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. 5822

12 **ANA MARISOL QUINTANA**
13 **Pharmacy Technician License**

STATEMENT OF ISSUES

14 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

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

1 **JURISDICTION**

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

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

7 5. Section 480 of the Code states:

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

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

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

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

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

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

1 Section 482.

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

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

10 **REGULATORY PROVISIONS**

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

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

18 **FIRST CAUSE FOR DENIAL OF APPLICATION**

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

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

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

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

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

16 **SECOND CAUSE FOR DENIAL OF APPLICATION**

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

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

24 **THIRD CAUSE FOR DENIAL OF APPLICATION**

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

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

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

3 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

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

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

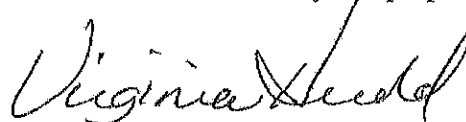
9 **PRAAYER**

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

- 12 1. Denying the application of Ana Marisol Quintana for a Pharmacy Technician License;
13 and
14 2. Taking such other and further action as deemed necessary and proper.

15
16 DATED: _____

11/3/16



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

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