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

In the Matter of the Statement of Issues
Against:
KRIT CHOTO
Pharmacy Technician Registration
Respondent.

Case No. 6459
OAH No. 2019040430
DEFAULT DECISION AND ORDER
[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about March 18, 2019, Complainant Anne Sodergren, in her official capacity as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed First Amended Statement of Issues No. 6459 against Krit Choto (Respondent) before the Board of Pharmacy.
2. On or about November 6, 2017, Respondent filed an application dated October 31, 2017, with the Board of Pharmacy to obtain a Pharmacy Technician Registration.
3. On or about April 9, 2018, the Board issued a letter denying Respondent's application for a Pharmacy Technician Registration. On or about May 11, 2018, Respondent appealed the Board's denial of his application and requested a hearing.
4. On or about April 4, 2019, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the First Amended Statement of Issues No. 6459,

1 Supplemental Statement to Respondent, Notice of Defense forms, and Request for Discovery to
2 Respondent's address on the application form, which was and is 7617 Bluebell Ave., North
3 Hollywood, CA 91605. A copy of the First Amended Statement of Issues is attached as exhibit A,
4 and is incorporated herein by reference.

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

7 6. On or about May 11, 2018, Respondent appealed the denial of his application and
8 requested a hearing in this action. A Notice of Hearing was served by mail at Respondent's
9 address on the application and it informed him that an administrative hearing in this matter was
10 scheduled for August 14, 2019.

11 7. The matter was called for hearing at the date, time and location set forth in the Notice
12 of Hearing. The assigned Administrative Law Judge found that the service of the Notice of
13 Hearing on Respondent was proper. There was no appearance by or on behalf of Respondent. A
14 default was declared and on motion of counsel for Complainant, the matter was remanded to the
15 Board under Government Code section 11520.

16 8. Government Code section 11506, subdivision (c), states, in pertinent part:
17

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

23 9. California Government Code section 11520, subdivision (a), states, in pertinent part:
24

25 (a) If the respondent either fails to file a notice of defense . . . or to appear at
26 the hearing, the agency may take action based upon the respondent's express
27 admissions or upon other evidence and affidavits may be used as evidence without
28 any notice to respondent...

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ORDER

IT IS SO ORDERED that the application of Respondent Krit Choto is hereby denied.

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

This Decision shall become effective on _October 10, 2019 at 5:00 p.m.

It is so ORDERED on September 10, 2019. _____

By 

Greg Lippe
Board Vice President (Acting President)
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

DOJ docket number: LA2018601415
53655171.DOCX

Attachments:

Exhibit A: First Amended Statement of Issues No. 6459

Exhibit B: Office of Administrative Hearings Findings and Declaration of Default; Order of Remand

Exhibit A

First Amended Statement of Issues No. 6459

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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 Statement of Issues
Against:
12 **KRIT CHOTO**
13 **Pharmacy Technician Registration**
14 **Applicant**
15 Respondent.

Case No. 6459
FIRST AMENDED STATEMENT OF
ISSUES

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On or about November 6, 2017, the Board of Pharmacy (Board) received an
23 application for a Pharmacy Technician Registration from Krit Choto (Respondent). On or about
24 October 31, 2017, Respondent certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the application. The Board denied the application on
26 April 9, 2018.

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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. Code section 480 states, in pertinent part:

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

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

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

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

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

19 (b) Notwithstanding any other provision of this code, a person shall not be
20 denied a license solely on the basis that he or she has been convicted of a felony if he
or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing
with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
21 convicted of a misdemeanor if he or she has met all applicable requirements of the
criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
22 person when considering the denial of a license under subdivision (a) of Section 482.

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

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

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5. Code section 493 states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

REGULATORY PROVISIONS

6. California Code of Regulations, title 16, section 1770 states, in pertinent part:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, 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.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Conviction of a Substantially Related Crime)

7. Respondent's application is subject to denial under Code section 480, subdivision (a)(1), and California Code of Regulations, title 16, section 1770, in that Respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. Specifically, on January 29, 2015, Respondent was convicted of one misdemeanor count of carrying a concealed weapon in a vehicle without a permit, in violation of Penal Code section 25400, subdivision (a)(1), in the criminal proceeding entitled *The People of the State of California v. Krit Choto* (Super. Ct. L.A. County, 2015, No. 4CA18188). The court sentenced Respondent to serve two days in jail and placed him on 36 months' probation with terms and conditions. The circumstances surrounding the conviction are that on or about December 14, 2014, during a traffic enforcement stop by the Los Angeles Police Department, an officer observed a backpack on the front passenger seat. Inside the backpack, the officer saw a brown leather case which contained an unloaded Gertenberger .22 caliber short revolver. The brown

1 leather case also contained 17 Remington .22 caliber bullets, one Super X .22 caliber bullet, one
2 "U" .22 caliber bullet, and one Super X .22 caliber simulation round. Respondent admitted that he
3 was neither a police officer nor possessed a concealed carry permit for a firearm.

4 **SECOND CAUSE FOR DENIAL OF APPLICATION**

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

6 8. Respondent's application is subject to denial under Code section 480, subdivision
7 (a)(2), in that on or about November 2, 2017, Respondent committed an act involving dishonesty,
8 fraud, or deceit with the intent to substantially benefit himself, by providing conflicting and
9 untrue statements to the Board in his written explanation regarding the circumstances surrounding
10 his December 14, 2014 arrest for possession of a concealed weapon in a vehicle without a permit.
11 Complainant realleges paragraph 7.

12 **THIRD CAUSE FOR DENIAL OF APPLICATION**

13 **(Knowingly Made A False Statement of Fact on Application for Licensure)**

14 9. Respondent's application is subject to denial under Code section 480, subdivision (d),
15 in that Respondent knowingly made a false statement of fact on his application for licensure by
16 providing conflicting and untrue statements to the Board in his explanation regarding the
17 circumstances surrounding his December 14, 2014 arrest for possession of a concealed weapon in
18 a vehicle without a permit. Complainant refers to, and by this reference incorporates, the
19 allegations set forth above in paragraphs 7 and 8, inclusive, as though set forth fully. In addition,
20 Respondent signed under penalty of perjury, under the laws of the State of California, that the
21 foregoing was true and correct on his application for licensure.

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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 Krit Choto for a Pharmacy Technician Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED: March 18, 2019



ANNE SODERGREN
 Interim Executive Officer
 Board of Pharmacy
 Department of Consumer Affairs
 State of California
Complainant

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