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8. **BEFORE THE**
9. **DEPARTMENT OF CONSUMER AFFAIRS**
10. **DENTAL BUREAU OF CALIFORNIA**
11. **STATE OF CALIFORNIA**

12. In the Matter of the Statement of Issues Against:

Case No. **DBC 2008-43**

13. **JANE ANN CARLSON, a.k.a.**
14. **JANE ANN VAVRINA**
15. 2430 Verna Way
16. Sacramento, CA 95864

STATEMENT OF ISSUES

15. Applicant for Registered Dental
16. Assistant License

17. Respondent.

18. Complainant alleges:

19. **PARTIES**

20. 1. Cathleen J. Poncabare ("Complainant") brings this Statement of Issues
21. solely in her official capacity as the Executive Officer of the Dental Bureau of California,
22. Department of Consumer Affairs.

23. 2. On or about August 15, 2007, the Dental Bureau of California received an
24. application for a Registered Dental Assistant ("RDA") license from Jane A. Carlson, a.k.a. Jane
25. Ann Vavrina ("Respondent"). On or about August 14, 2007, Respondent certified under penalty
26. of perjury to the truthfulness of all statements, answers, and representations in the application.
27. The Bureau denied the application on October 29, 2008.

28. ///

1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Director of Consumer
3 Affairs ("Director") for the Dental Bureau of California, under the authority of the following
4 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
5 indicated.

6 4. Section 118, subdivision (a), of the code provides that the withdrawal of
7 an application for a license, after it has been filed with the board, shall not deprive the board of
8 jurisdiction to proceed with application denial upon any ground provided by law.

9 5. Code section 101.1, subdivision (b)(1), states:

10 In the event that any board, as defined in Section 477, becomes
11 inoperative or is repealed in accordance with the act that added that
12 section, or by subsequent acts, the Department of Consumer Affairs
13 shall succeed to and is vested with all the duties, powers, purposes,
14 responsibilities and jurisdiction not otherwise repealed or made
15 inoperative of that board and its executive officer.

16 6. Code section 477 provides, in pertinent part, that "Board" includes
17 "bureau," "commission," "committee," "department," "division," "examining committee,"
18 "program," and "agency." "License" includes certificate, registration or other means to engage
19 in a business or profession regulated by the Code.

20 **STATUTORY PROVISIONS**

21 7. Section 480 of the Code states:

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

24 (1) Been convicted of a crime. A conviction within the meaning of
25 this section means a plea or verdict of guilty or a conviction following
26 a plea of nolo contendere. Any action which a board is permitted to
27 take following the establishment of a conviction may be taken when
28 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 of the Penal Code.

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

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

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

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

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

8. Section 1628:5 of the Code states, in pertinent part:

[A]t any time prior to licensure, the board may deny the issuance of a license to an applicant for licensure as a...dental auxiliary, if the applicant has done any of the following:

(a) Committed any act which would be grounds for the suspension or revocation of a license issued pursuant to this code.

(b) Committed any act or been convicted of a crime constituting grounds for denial of licensure or registration under Section 480.

9. Section 1680 of the Code states, in pertinent part:

Unprofessional conduct by a person licensed under this chapter [Chapter 4 (commencing with section 1600)] is defined as, but is not limited to, any one of the following:

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 7 (commencing with Section 4211) of Chapter-9, or controlled substances, as defined in Division 10 (commencing with Section. 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

REGULATORY PROVISIONS

10. California Code of Regulations ("Regulations"), title 16, section 1019,

states, in pertinent part:
///

1 For the purposes of denial, ...of a license of a...dental auxiliary
2 pursuant to Division 1.5 (commencing with Section 475) of the code, a
3 crime or act shall be considered to be substantially related to the
4 qualifications, functions, or duties of a...dental auxiliary if to a
5 substantial degree it evidences present or potential unfitness of a
6 licensee to perform the functions authorized by his license in a manner
7 consistent with the public health, safety, or welfare. Such crimes or
8 acts shall include but not be limited to, those involving the following:

9 (b) Any violation of the provisions of Chapter 4, Division 2 of the
10 Code [commencing with Code section 1600].

11 **DRUGS**

12 11. "Marijuana" is a Schedule I controlled substance as designated by Health
13 and Safety Code section 11054(d)(13).

14 12. "Methamphetamine" is a Schedule II controlled substance as designated
15 by Health and Safety Code section 11055(d)(2).

16 **FIRST CAUSE FOR DENIAL OF APPLICATION**

17 (Criminal Convictions)

18 13. Respondent's application for licensure is subject to denial pursuant to
19 Code section 480, subdivision (a)(1), and section 1628.5, subdivision (b), on the grounds that
20 Respondent was convicted of crimes substantially related to the qualifications, functions or
21 duties of a RDA within the meaning of Regulations, section 1019. The circumstances are as
22 follows:

23 a. On or about December 19, 2000, Respondent was convicted on her
24 plea of nolo contendere of one count of violating Penal Code section 475 [possession of a forged
25 or counterfeit instrument] and one count of violating Penal Code section 182 [conspiracy to
26 commit a crime], both felonies, in Placer County Superior Court in the case titled *People v.*
27 *Andrew Ryan Tambert and Jane Ann Vavrina*, Case No. 62-17485.

28 The underlying facts include: On or about September 20, 2000, Respondent
possessed counterfeit \$20.00 bills and passed them to victim J.K. for the purchase of computer
equipment, a printer, and video cameras.

b. On or about September 28, 2000, Respondent was convicted on her plea
of nolo contendere of violating H&S Code section 11378 and 11359 [possession of

1 Methamphetamine and Marijuana for sale, respectively] both felonies, in the Superior Court of
2 California, County of Sacramento, in the case titled *People v. Jane Vavrina*, Case No.
3 00F00367.

4 The underlying facts include: On or about January 6, 2000, Respondent possessed
5 the controlled substances Methamphetamine and Marijuana for the purpose of sale.

6 **SECOND CAUSE FOR DENIAL OF APPLICATION**

7 (Committed Acts Involving Dishonesty, Fraud or Deceit)

8 14. Respondent's application for licensure is subject to denial under Code
9 section 480, subdivision (a)(2), and section 1628.5, subdivision (b), on the grounds that
10 Respondent committed acts involving dishonesty with the intent to substantially benefit herself
11 or another, or to substantially injure another, which acts are substantially related to the qualifi-
12 cations, functions, or duties of a RDA within the meaning of Regulations, section 1019. The
13 circumstances surrounding Respondent's acts involving dishonesty are set forth in paragraph
14 13.a, above.

15 **THIRD CAUSE FOR DENIAL OF APPLICATION**

16 (Acts If Done By Licentiate As Grounds for Suspension Or Revocation)

17 15. Respondent's application for licensure is subject to denial under Code
18 sections 480, subdivision (a)(3), 1628.5, subdivision (a), as set forth in paragraph 13, above and
19 under Code sections 480, subdivision (a)(3), 1628.5, subdivision (a), and 1680, subdivision (m),
20 as set forth in paragraph 14, above, on the grounds that Respondent committed acts which if done
21 by a licensed RDA would be grounds for license suspension or revocation, which acts are
22 substantially related to the qualifications, functions, or duties of a RDA within the meaning of
23 Regulations, section 1019.

24 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

25 (Knowingly Made False Statement On License Application)

26 16. Respondent's application for licensure is subject to denial under Code
27 section 480, subdivision (c), in that Respondent knowingly made a false statement in response to
28 application Question 12, "Have you ever been convicted of, pled guilty, or pled nolo contendere

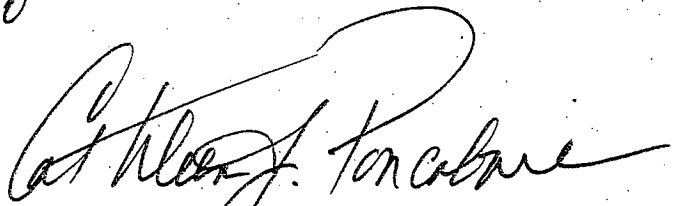
1 to any offense, misdemeanor or felony in any state, the Untied States, or a foreign county (except
2 violation of traffic laws not related to drugs or alcohol)?," in that she failed to reveal the
3 conviction described in paragraph 13.a; above.

4 **PRAYER**

5 **WHEREFORE**, Complainant requests that a hearing be held on the matters
6 herein alleged, and that following the hearing, the Director of Consumer Affairs issue a decision:

- 7 1. Denying the application of Jane A. Carlson, a.k.a. Jane A. Vavrina, for a
8 Registered Dental Assistant;
- 9 2. Taking such other and further action as deemed necessary and proper.

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11 DATED: Dec. 19, 2008



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14 CATHLEEN J. PONCABARE
15 Executive Officer
16 Dental Bureau of California
17 Department of Consumer Affairs
18 State of California
19 Complainant

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