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| 8 | BEFORE THE BOARD OF PHARMACY |
| 9 | DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA |
| 10 | |
| 11 | In the Matter of the Statement of Issues Against: Case No. 3447 |
| 12 | STATEMENT OF ISSUES |
| 13 | PALWINDER S. BAGRI, a.k.a. PALWINDER SINGH BAGRI |
| 14 | 8978 Chantal Way Sacramento, CA 95829 |
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| 16 | Applicant for Pharmacy Technician Registration |
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| 18 | Respondent. |
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| 20 | Complainant alleges: |
| 21 | PARTIES |
| 22 | 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official |
| 23 | capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. |
| 24 | 2. On or about January 8, 2008, the Board received an application for a Registration as |
| 25 | a Pharmacy Technician (license) from Palwinder S. Bagri, a.k.a. Palwinder Singh Bagri, |
| 26 | (Respondent). On or about January 8, 2008, Respondent certified under penalty of perjury to the |
| 27 | truthfulness of all statements, answers, and representations in the application. The Board denied |
| 28 | the application on March 25, 2009. |
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JURISDICTION

- 3. This Statement of Issues is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
- 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 4300, subdivision (c) states, in pertinent part, the Board may refuse a license to an applicant guilty of unprofessional conduct.

STATUTORY PROVISIONS

- 6. Section 480 of the Code states, in pertinent part:
- (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:
- (1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a 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 of the Penal Code.
- (3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.
- (B) 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.
- 7. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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- (h) The administering to oneself, . . . or the use of . . . alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

FIRST CAUSE FOR DENIAL OF APPLICATION (CONVICTIONS OF CRIMES)

- 8. Respondent's application is subject to denial under Code section 480, subdivision (a)(1), in that Respondent was convicted of the following crimes, which are substantially related to the duties, qualifications, and functions of a licensed Pharmacy Technician:
- 9. On or about November 21, 2008, Respondent was convicted on his plea of nolo contendere in the case of *People v. Palwinder Singh Bagri*, Sacramento County Superior Court Case No. 08T05416, of the crime of violating Vehicle Code section 23152, subdivision (b) [driving a motor vehicle under the influence of alcohol with a blood alcohol concentration of .08% or more], a misdemeanor.
- a. The underlying circumstances are: On or about August 30, 2008, Respondent drove a motor vehicle while under the influence of alcohol and his blood alcohol concentration measured .14%. Respondent violated a posted sign stating "no turn on red" when he turned right against the red light. Respondent had the objective signs of alcohol intoxication including unsteady gait, slurred speech, bloodshot and watery eyes, and a strong odor of alcohol beverage on his person. Respondent performed poorly on field sobriety tests.

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- 10. On or about August 11, 2008, Respondent was convicted on his plea of nolo contendere in the case of People v. Palwinder Singh Bagri, Sacramento County Superior Court Case No. 07F06632, of the crime of violating Penal Code section 246.3 [willful and unlawful discharge of a firearm in a grossly negligent manner which could result in injury and death to a person], a misdemeanor.
- The underlying circumstances are: On or about July 4, 2007, Respondent a. assaulted victims F.B. and T.P. with his fists in the parking lot of M&N Liquor Store, located on La Riviera Drive, Sacramento, where Respondent was employed. After arguing with the victims in the parking lot of the store, Respondent re-entered M&N Liquor Store and returned to the parking lot with a loaded handgun. Respondent pointed the firearm in the air and fired one round. Respondent also pointed the firearm at victims F.B. and T.P. and charged a second round. The second round struck the ground. Respondent used the firearm to strike a third victim, W.A., in the back of his head. The arresting officer determined the firearm to be a dark colored semi-automatic handgun. The "Head Stamp" on the bullet casings indicated "FC 9mm LUGER" and there were eleven (11) live rounds in the magazine, all of which had the same "Head Stamp." Bullet casings on the ground at the site of the assault and gun firing also had the same "Head Stamp." The arresting officer observed that the hammer of the firearm was in the cocked position at the time of the investigation and arrest.

SECOND CAUSE FOR DENIAL OF APPLICATION (ACTS WARRANTING LICENSE DENIAL)

Respondent's application is subject to denial under Code sections 480(a)(3)A) in that 11. Respondent committed acts that would be grounds for suspension or revocation of a Pharmacy Technician license on the grounds of unprofessional conduct within the meaning of Code section 4301, subdivision (1). Respondent's acts are substantially related to the qualifications, functions, and duties of the Pharmacy Technician licensed profession. The underlying circumstances are set forth in paragraphs 9 and 10, above, and are incorporated herein by this reference.

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THIRD CAUSE FOR DENIAL OF APPLICATION

(USE OF ALCOHOL – DANGEROUS OR INJURIOUS TO SELF OR OTHERS)

12. Respondent's application is subject to denial under Code section 4301, subdivision (h), on the grounds of unprofessional conduct in that Respondent administered to himself or used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to himself or to another person or to the public, or to the extent that the use impairs the ability to conduct with safety to the public the practice of Pharmacy Technician, as alleged in paragraph 9, above, which is incorporated herein by this reference as if fully set forth herein.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(ACT OR ACTS WARRANTING DISCIPLINE OF LICENSEE)

13. Respondent's application is subject to denial under Code section 480, subdivision (3)(a), in conjunction with Code section 4301, on the grounds of unprofessional conduct in that on or about August 26, 2006, Respondent committed an act or acts of moral turpitude, dishonesty, fraud, deceit, or corruption, to wit, Respondent sold an alcoholic beverage to a minor. Said act would warrant suspension or revocation of a license within the meaning of Code section 4301, subdivision (f).

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 Palwinder Singh Bagri, a.k.a. Palwinder S. Bagri for a Pharmacy Technician license;
 - 2. Taking such other and further action as deemed necessary and proper.

DATED 3/16/10

Executive Officer Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant