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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:
13 **Adam Alvarez**
14 **2109 Myrtle Avenue**
Sanger, CA 93657
15 Respondent.

Case No. 3467

STATEMENT OF ISSUES

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 April 24, 2008, the Board of Pharmacy, Department of Consumer Affairs
22 received an application for a Pharmacy Technician Registration from Adam Alvarez
23 (Respondent). On or about April 21, 2008, Adam Alvarez certified under penalty of perjury to
24 the truthfulness of all statements, answers, and representations in the application. The Board
25 denied the application on July 21, 2009.

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1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

4 (k) The conviction of more than one misdemeanor or any felony involving the use,
5 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
6 combination of those substances.
7

8 (l) The conviction of a crime substantially related to the qualifications, functions, and
9 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
10 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
11 substances or of a violation of the statutes of this state regulating controlled substances or
12 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
13 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
14 The board may inquire into the circumstances surrounding the commission of the crime, in order
15 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
16 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
17 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
18 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
19 of this provision. The board may take action when the time for appeal has elapsed, or the
20 judgment of conviction has been affirmed on appeal or when an order granting probation is made
21 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
22 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
23 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
24 indictment.
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1 6. Section 480 of the Code states:

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

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

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

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

14 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
15 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
16 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
17 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
18 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
19 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
20 Section 482.

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

23 7. Section 4311(c)(4) provides in pertinent part that:

24 "A conviction of any crime referred to in Section 4301, or for violation of Section 187, 261,
25 or 288 of the Penal Code, shall be conclusively presumed to be substantially related to the
26 qualifications, functions, or duties of a licensee of the board.

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2 **FIRST CAUSE FOR DENIAL OF APPLICATION**

3 **(Conviction of a Crime)**

4 11. Respondent's application is subject to denial under sections 480 (a) (1),4300 (c)
5 4301(k), (l) in that he was convicted of the following crimes that are substantially related to the
6 duties and functions of a pharmacy technician:

7 12. On or about March 13, 1990 in *People v. Adam Alvarez*, Fresno Superior Court Case
8 No. 415373-0, respondent was convicted of a violation of Vehicle Code section 23153(b) (driving
9 while having .10 percent or more of alcohol and causing bodily injury)

10 13. On or about February 3, 1993, in *People v. Adam Alvarez*, Fresno Superior Court
11 Case No. 083591, respondent entered a plea of guilty to a violation of Vehicle Code section
12 23152b (driving under the influence) and a violation of Penal Code section 14601.2 (a) priors.
13 Respondent admitted that he had the following two prior violations: Vehicle Code section 23152
14 (b) on April 10, 1987, and Vehicle Code section 23153(b) on March 13, 1990.

15 14. On or about October 1, 1996, in *People v. Adam Alvarez*, Fresno Superior Court,
16 respondent entered a plea of guilty to a violation of Vehicle Code section 23152 (c)/23175 a
17 felony.

18 15. On or about February 4, 2003, in *People v. Adam Alvarez*, Fresno Superior Court,
19 respondent entered a plea of guilty to a violation of Fresno Municipal code section 8107 (loitering
20 for the purposes of prostitution), a misdemeanor.

21 **SECOND CAUSE FOR DENIAL OF APPLICATION**

22 **(Use of alcohol in a Manner Dangerous to self or others)**

23 16. Respondent's application is subject to denial under sections 4300 (c), 480 (a) (3) and
24 4301 (f) and (h),in that he used alcohol in a manner dangerous to himself others as set
25 forth more specifically above in paragraphs 11, 12, and 13 which would have subjected him to
26 discipline if he were licensed as a pharmacy technician.

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 (Unprofessional conduct)

3 17. Respondent's application is subject to denial under sections 480 (a) (3), 4300 (c),
4 4301(f) in that he conducted himself in a manner that would have subjected him to discipline had
5 he been licensed and constitutes unprofessional conduct. The circumstances are as follows:

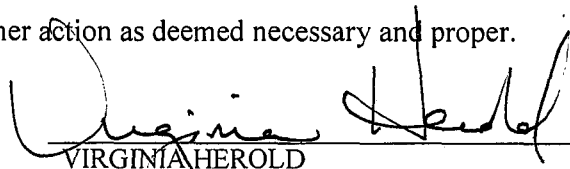
6 18. On or about July 27, 2005, respondent admitted that he drove from Sanger to Fresno
7 to look for a woman to contact. Respondent related that he observed a woman and touched
8 himself for the purpose of sexually arousing himself and offered her a ride.

9 **PRAYER**

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:
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- 13 1. Denying the application of Adam Alvarez for a Pharmacy Technician Registration;
14 2. Taking such other and further action as deemed necessary and proper.

15 DATED: 3/15/10

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

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