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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  
Against:

Case No. 3953

12 **SEAN PETER HAYRUP**  
13 **a.k.a., SEAN PETER JOSEPH HAYRUP**  
14 3203 West 153rd Street  
Gardena, CA 90249

**STATEMENT OF ISSUES**

15  
16 Respondent.

17  
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 March 3, 2010, the Board of Pharmacy ("Board") received an application  
23 for registration as a Pharmacy Technician from Sean Peter Hayrup, also known as Sean Peter  
24 Joseph Hayrup ("Respondent"). On or about February 22, 2010, Respondent certified under  
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
26 application. The Board denied the application on August 18, 2010.

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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 ("Code") unless  
4 otherwise 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 applicant  
8 has one of the following:

9 . . . .

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

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

15 5. Code section 492 states, in pertinent part:

16 "Notwithstanding any other provision of law, successful completion of any diversion  
17 program under the Penal Code, or successful completion of an alcohol and drug problem  
18 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
19 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
20 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
21 division, from taking disciplinary action against a licensee or from denying a license for  
22 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
23 record pertaining to an arrest. This section shall not be construed to apply to any drug diversion  
24 program operated by any agency established under Division 2 (commencing with Section 500) of  
25 this code, or any initiative act referred to in that division."

26 6. Code section 4300 provides, in pertinent part, that every license issued by the Board  
27 is subject to discipline, including suspension or revocation.

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7. Code section 4301 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:

....

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or 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.

....

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

....

"(p) Actions or conduct that would have warranted denial of a license."

**CONTROLLED SUBSTANCE**

8. "Cocaine," is a Schedule II controlled substance as designated by Health and Safety Code Section 11055, subdivision (b)(6) and is categorized as dangerous drug pursuant to section 4022.

**REGULATORY PROVISIONS**

9. 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."

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1 **CAUSE FOR DENIAL OF APPLICATION**

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

3 10. Respondent's application is subject to denial under sections 4301, subdivision (p) and  
4 480, subdivisions (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a  
5 licentiate of the business and profession, would be grounds for suspension or revocation of his  
6 license as follows:

7 a. On or about April 13, 2010, during an investigation of a prowler at a residence by the  
8 Los Angeles County Sheriff's Department, Respondent was contacted. Respondent matched the  
9 description of the suspect prowler and was detained. Respondent continually yelled "I need more  
10 cocaine." When asked if he had used cocaine, Respondent admitted that he had used some earlier  
11 in the day. When asked how much cocaine he had used, Respondent admitted that he had used  
12 one (1) gram in ten (10) minutes. Respondent displayed signs and symptoms of being under the  
13 influence of a central nervous system stimulant. Respondent had dilated pupils, was restless, and  
14 excited. Respondent was subsequently arrested for violating Health and Safety Code section  
15 11550, subdivision (a) [under the influence of a central nervous system stimulant], a  
16 misdemeanor. During the booking procedure, Respondent refused to submit to a urine test.

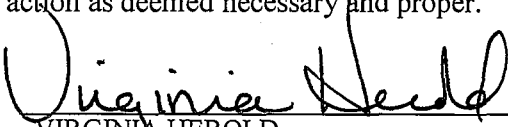
17 b. Respondent used and was under the influence of a central nervous system stimulant,  
18 to wit: Cocaine, in violation of section 4301, subdivisions (h) and (j).

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Board issue a decision:

- 22 1. Denying the application of Respondent for registration as a Pharmacy Technician; and  
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: 9/1/11

25   
26 VIRGINIA HEROLD  
27 Executive Officer  
28 Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

DOJ Matter ID: LA2011500776