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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

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

Case No. 4295

14 **DOUGLAS PARKER PREBLE**

**STATEMENT OF ISSUES**

15 **Pharmacy Technician Registration**  
16 **Applicant**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about March 8, 2011, the Board of Pharmacy, Department of Consumer Affairs  
24 received an application for a Pharmacy Technician Registration from Douglas Parker Preble  
25 (Respondent). On or about March 1, 2011, Douglas Parker Preble certified under penalty of  
26 perjury to the truthfulness of all statements, answers, and representations in the application. The  
27 Board denied the application on January 5, 2012.

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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board of Pharmacy (Board),  
3 Department of Consumer Affairs, under the authority of the following laws. All section  
4 references are to the Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (c) of the Code states, in pertinent part, that the Board  
6 may refuse a license to any applicant guilty of unprofessional conduct. The Board may, in its sole  
7 discretion, issue a probationary license to any applicant for a license who is guilty of  
8 unprofessional conduct and who has met all other requirements for licensure.

9 **STATUTORY PROVISIONS**

10 5. Section 475 of the Code states:

11 (a) Notwithstanding any other provisions of this code, the provisions of this  
12 division shall govern the denial of licenses on the grounds of:

13 (1) Knowingly making a false statement of material fact, or knowingly  
14 omitting to state a material fact, in an application for a license.

15 (2) Conviction of a crime.

16 (3) Commission of any act involving dishonesty, fraud or deceit with the  
17 intent to substantially benefit himself or another, or substantially injure another.

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

20 . . . .

21 6. Section 480 states, in pertinent part:

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

24 (1) Been convicted of a crime. A conviction within the meaning of this  
25 section means a plea or verdict of guilty or a conviction following a plea of nolo  
26 contendere. Any action that a board is permitted to take following the establishment  
27 of a conviction may be taken when the time for appeal has elapsed, or the judgment  
28 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 herself or another, or substantially injure another.

(3)(A) 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.

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

3 .....

4 7. Section 482 of the Code states:

5 Each board under the provisions of this code shall develop criteria to evaluate  
6 the rehabilitation of a person when:

7 (a) Considering the denial of a license by the board under Section 480; or

8 (b) Considering suspension or revocation of a license under Section 490.

9 Each board shall take into account all competent evidence of rehabilitation  
10 furnished by the applicant or licensee.

11 8. Section 4301 of the Code states:

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

14 .....

15 (h) The administering to oneself, of any controlled substance, or the use of any  
16 dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
17 dangerous or injurious to oneself, to a person holding a license under this chapter, or  
18 to any other person or to the public, or to the extent that the use impairs the ability of  
19 the person to conduct with safety to the public the practice authorized by the license.

18 .....

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

20 .....

21 (l) The conviction of a crime substantially related to the qualifications,  
22 functions, and duties of a licensee under this chapter. The record of conviction of a  
23 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
24 States Code regulating controlled substances or of a violation of the statutes of this  
25 state regulating controlled substances or dangerous drugs shall be conclusive  
26 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
27 be conclusive evidence only of the fact that the conviction occurred. The board may  
28 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

1 conviction has been affirmed on appeal or when an order granting probation is made  
2 suspending the imposition of sentence, irrespective of a subsequent order under  
3 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.

4 . . . .

### 5 REGULATORY PROVISIONS

6 9. California Code of Regulations, title 16, section 1768 states:

7 (a) Where the board has denied an application for a license, the earliest date on  
8 which the applicant may reapply for a license is one year after the effective date of  
the denial.

9 (b) All competent evidence of rehabilitation presented will be considered upon  
10 a reapplication. The board shall use the criteria listed in section 1769 when  
considering evidence of rehabilitation.

11 10. California Code of Regulations, title 16, section 1769 states:

12 (a) When considering the denial of a facility or personal license under Section  
13 480 of the Business and Professions Code, the board, in evaluating the rehabilitation  
of the applicant and his present eligibility for licensing or registration, will consider  
14 the following criteria:

15 (1) The nature and severity of the act(s) or offense(s) under consideration as  
grounds for denial.

16 (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under  
17 consideration as grounds for denial under Section 480 of the Business and Professions  
Code.

18 (3) The time that has elapsed since commission of the act(s) or crime(s) referred  
19 to in subdivision (1) or (2).

20 (4) Whether the applicant has complied with any terms of parole, probation,  
restitution or any other sanctions lawfully imposed against the applicant.

21 (5) Evidence, if any, of rehabilitation submitted by the applicant.

22 . . . .

23 11. California Code of Regulations, title 16, section 1770 states:

24 For the purpose of denial, suspension, or revocation of a personal or facility  
25 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  
26 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  
27 functions authorized by his license or registration in a manner consistent with the  
public health, safety, or welfare.

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1 **DRUG**

2 12. Lysergic acid diethylamide (also known by the street name LSD), is a Schedule I  
3 controlled substance as designated by Health and Safety Code section 11054, subdivision (d)(12),  
4 and is a dangerous drug pursuant to Business & Professions Code section 4022.

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 **(June 23, 2000 Criminal Conviction for**

7 **Possession of a Controlled Substance on October 26, 1999)**

8 13. Respondent's application for registration as a pharmacy technician is subject to denial  
9 under sections 480, subdivisions (a)(1) and (a)(3)(A) of the Code in that Respondent was  
10 convicted of a crime that is substantially related to the qualifications, duties, and functions of a  
11 pharmacy technician, and would be a ground for discipline under section 4301, subdivision (l) of  
12 the Code for a registered pharmacy technician. The circumstances are as follows:

13 a. On or about January 5, 2000, in a criminal proceeding entitled *People of the*  
14 *State of California vs. Douglas Parker Preble*, in San Diego County Superior Court, case number  
15 CN105935, Respondent pled guilty to violating Health and Safety Code section 11377,  
16 subdivision (a), possession of a controlled substance, to wit, Lysergic acid diethylamide (LSD), a  
17 felony. As a result of the guilty plea, the court deferred judgment for a period of 18 months, and  
18 Respondent was ordered to complete a drug treatment program pursuant to Penal Code section  
19 1000.

20 b. On or about June 23, 2000, Respondent's diversion was revoked and he was  
21 placed on formal probation for three years, and ordered to be committed to the custody of the  
22 sheriff for 90 days, with credit for 49 days. Respondent was further ordered to complete 15 days  
23 in the Public Service Program, pay fines and fees, register as a drug offender, abstain from drug  
24 use, and submit to a Fourth Amendment waiver. On June 30, 2003, the court set aside the plea of  
25 guilty, and the case was dismissed pursuant to Penal Code section 1203.4.

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1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

2 **(December 4, 2003 Criminal Convictions for Vandalism & Battery)**

3 14. Respondent's application for registration as a pharmacy technician is subject to denial  
4 under sections 480, subdivisions (a)(1) and (a)(3)(A) of the Code in that Respondent was  
5 convicted of crimes that are substantially related to the qualifications, duties, and functions of a  
6 pharmacy technician, and would be a ground for discipline under section 4301, subdivision (l) of  
7 the Code for a registered pharmacy technician. The circumstances are as follows:

8 a. On or about December 4, 2003, in a criminal proceeding entitled *People of the*  
9 *State of California vs. Douglas Parker Preble*, in San Diego County Superior Court, case number  
10 CN167849, Respondent was convicted on his plea of guilty to violating Penal Code section 494,  
11 subdivisions (a) and (b)(2)(A), vandalism under \$400; and Penal Code section 242, battery,  
12 misdemeanors. The court dismissed additional counts of battery, petty theft of retail  
13 merchandise (Pen. Code, § 484/490.5), and being under the influence of a controlled substance  
14 (Health & Saf. Code, § 11550(a)), pursuant to a plea agreement.

15 b. As a result of the convictions, on or about December 4, 2003, Respondent was  
16 granted three years summary probation, and ordered to maintain psychiatric counseling and take  
17 prescribed medications. On February 2, 2007, the court granted Respondent's Petition for  
18 Dismissal pursuant to Penal Code section 1203.4.

19 c. The facts that led to the convictions are that on or about September 19, 2003,  
20 the Escondido Police Department received a theft report from a local health food store.  
21 According to the store clerk, Respondent entered the store, grabbed four bottles of nutritional  
22 supplements worth approximately \$150, then ran from the store. The clerk followed Respondent  
23 and saw him throw the bottles into the trunk of his car. The clerk attempted to detain  
24 Respondent, but Respondent got into his car and backed into the clerk, nearly running him over.  
25 The clerk recognized Respondent as a person who had filed a health claim against the store  
26 stating he had become sick from the supplements. On September 22, 2003, the Escondido Police  
27 Department again responded to the health food store. Respondent was being physically detained  
28 by the store's owner. According to the owner, Respondent entered the store and accused the

1 owner of putting "speed" in his merchandise. When the owner told Respondent he was placing  
2 him under citizen's arrest for the theft on September 19, 2003, Respondent charged the owner and  
3 began to fight with him. The store owner pinned Respondent to the floor and had a passerby dial  
4 9-1-1. Upon contact with Respondent, the officer noted that Respondent exhibited symptoms  
5 consistent with someone under the influence of a controlled substance (severe eyelid tremors,  
6 elevated pulse, and dilated pupils). Respondent told the officer that he was being poisoned with  
7 methamphetamine and that it was being put in his food clandestinely.

8 **THIRD CAUSE FOR DENIAL OF APPLICATION**

9 **(August 16, 2007 Criminal Convictions for Making a Criminal Threat on March 27, 2007)**

10 15. Respondent's application for registration as a pharmacy technician is subject to denial  
11 under sections 480, subdivisions (a)(1) and (a)(3)(A) of the Code in that Respondent was  
12 convicted of a crime that is substantially related to the qualifications, duties, and functions of a  
13 registered pharmacy technician, and would be a ground for discipline under section 4301,  
14 subdivision (l) of the Code for a registered pharmacy technician. The circumstances are as  
15 follows:

16 a. On or about August 16, 2007, in a criminal proceeding entitled *People of the*  
17 *State of California vs. Douglas Parker Preble*, in San Diego County Superior Court, case number  
18 CN226910, Respondent was convicted on his plea of guilty to two counts of violating Penal Code  
19 section 422, making a criminal threat, a misdemeanor pursuant to Penal Code section 17,  
20 subdivision (b)(4).

21 b. As a result of the convictions, on or about August 16, 2007, Respondent was  
22 granted three years summary probation, and ordered to serve 180 days in the custody of the  
23 sheriff, with credit for 211 days. Respondent was also ordered to stay away from the victims. On  
24 September 10, 2010, the court granted Respondent's Petition for Dismissal pursuant to Penal  
25 Code section 1203.4.

26 c. The facts that led to the convictions are that on or about the morning of March  
27 28, 2007, the San Diego County Sheriff's Department received a report that on the previous  
28 evening, during a verbal altercation at their condominium complex, Respondent had threatened to

1 shoot his neighbors. When his neighbors said they were going to call law enforcement,  
2 Respondent threatened to shoot the cops when they arrived. On March 29, 2007, deputies  
3 intercepted Respondent as he was driving into the complex. Respondent told the deputies that he  
4 could not be arrested because he had diplomatic immunity. Respondent told the deputies that his  
5 neighbors would sneak into his home, have parties, do drugs, and poison his food.

6 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

7 **(Dangerous Use of a Controlled Substance)**

8 16. Respondent's application for registration as a pharmacy technician is subject to denial  
9 under sections 480, subdivision (a)(3)(A) of the Code in that on or about September 22, 2003, as  
10 described in paragraph 13, above, Respondent used a controlled substance, and was under the  
11 influence of a controlled substance in a manner as to be dangerous or injurious to himself or to  
12 others. Such conduct would be a ground for discipline under section 4301, subdivision (h) of the  
13 Code for a registered pharmacy technician.

14 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

15 **(Violation of State Laws Regulating Controlled Substances)**

16 17. Respondent's application for registration as a pharmacy technician is subject to denial  
17 under sections 480, subdivision (a)(3)(A) of the Code in that Respondent violated state laws  
18 regulating controlled substances, as described in paragraphs 12 and 13, above. Such conduct  
19 would be a ground for discipline under section 4301, subdivision (j) of the Code for a registered  
20 pharmacy technician.

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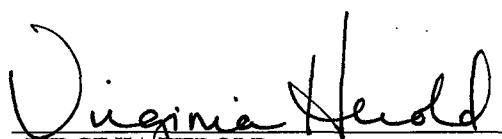
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**PRAYER**

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 Douglas Parker Preble for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 8/14/12

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

SD2012703279