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

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

Case No. 4830

13 **BRUCE ALAN MCDANIELS**
14 **Pharmacy Technician Registration**
15 **Applicant**

STATEMENT OF ISSUES

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 December 24, 2012, the Board of Pharmacy, Department of Consumer
23 Affairs received an application for a Pharmacy Technician Registration from Bruce Alan
24 McDaniels (Respondent). On or about November 28, 2012, Bruce Alan McDaniels certified
25 under penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 application. The Board denied the application on April 11, 2013.

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1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

3 “ . . .

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

6 “ . . .

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

24 REGULATORY PROVISION

25 7. California Code of Regulations, title 16, section 1770, states:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 FIRST CAUSE FOR DENIAL OF APPLICATION

5 (Criminal Convictions)

6 Conviction No. 1

7 8. Respondent's application is subject to denial under Section 4301(l), by and through
8 Section 480, subdivision (a)(1), of the Code, in conjunction with California Code of Regulations,
9 title 16, section 1770, in that on or about November 18, 1991, in a criminal proceeding entitled
10 *The People of the State of California v. Bruce McDaniels*, in the Municipal Court of California,
11 County of Fresno, Case Number M053726-6, Respondent was convicted by plea of guilty for
12 violating Vehicle Code section 23152(a) (driving under the influence of alcohol) and Health and
13 Safety Code section 1150(a) (possession of a controlled substance [marijuana]), a misdemeanor.
14 Respondent was sentenced to three years probation, ninety days of jail, and a fine.

15 Conviction No. 2

16 9. Respondent's application is subject to denial under Section 4301(l), by and through
17 Section 480, subdivision (a)(1) of the Code, in conjunction with California Code of Regulations,
18 title 16, section 1770, in that on or about June 29, 2001, in a criminal proceeding entitled *The*
19 *People of the State of California v. Bruce Alan McDaniels*, in the Municipal Court of California,
20 County of Fresno, Case Number M01903192-3, Respondent was convicted of violating Health
21 and Safety Code section 11364 (possession of controlled substance paraphernalia [a crack pipe]),
22 a misdemeanor. Respondent was sentenced to three years probation and three days of jail. The
23 facts and circumstances of this conviction are as follows:

24 a. On or about February 23, 2001, when a Fresno Police Officer conducted a traffic stop
25 on a vehicle in which Respondent was a passenger, the officer discovered that Respondent
26 possessed a crack pipe as well as an open container of alcohol.

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1 **Conviction No. 3**

2 10. Respondent's application is subject to denial under Section 4301(l) of the Code, by
3 and through Section 480, subdivision (a)(1) of the Code, in conjunction with California Code of
4 Regulations, title 16, section 1770, in that on or about February 26, 2002, in a criminal proceeding
5 entitled *The People of the State of California v. Bruce Alan McDaniels*, in the Superior Court of
6 California, County of Fresno, Case Number M01915044-2, Respondent was convicted of
7 violating Health and Safety Code section 11364 (possession of controlled substance paraphernalia
8 [a crack pipe]), a misdemeanor. Respondent was sentenced to three years probation, ten days of
9 jail, and to enroll in and complete a work program. The facts and circumstances of this
10 conviction are as follows:

11 a. On or about October 6, 2001, while a Fresno Police Officer was conducting drug
12 surveillance, the officer spoke with Respondent and discovered that Respondent possessed a crack
13 pipe.

14 **Conviction No. 4**

15 11. Respondent's application is subject to denial under Section 4301(l) of the Code, by
16 and through Section 480, subdivision (a)(1) of the Code, in conjunction with California Code of
17 Regulations, title 16, section 1770, in that on or about October 14, 2003, in a criminal proceeding
18 entitled *The People of the State of California v. Bruce Alan McDaniels*, in the Superior Court of
19 California, County of Fresno, Case Number M03916051-6, Respondent was convicted by plea of
20 nolo contendere for violating Penal Code section 484(a) (theft), a misdemeanor. Respondent was
21 sentenced to three years probation, ten days of jail, and a fine. The facts and circumstances of this
22 conviction are as follows:

23 a. On or about August 13, 2003, a Fresno Police Officer arrested Respondent after
24 Respondent stole a shower radio from a Rite Aid store.

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THIRD CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct-Act—Violation of State Statues Regulating Controlled Substances and Dangerous Drugs)

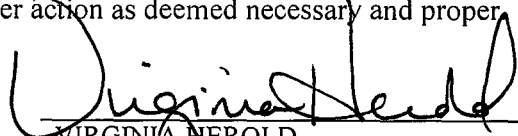
13. Respondent's application is subject to denial under Section 4301, subdivision (j), of the Code in that Respondent has been convicted of violating provisions of the Health and Safety Code regulating controlled substances and dangerous drugs as more fully set forth in paragraphs 8-11.

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 Bruce Alan McDaniels for a Pharmacy Technician Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 12/2/13



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

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