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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

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

Case No. 4947

12 **HANNARY TENA NORK**

STATEMENT OF ISSUES

13 Pharmacy Technician Registration Applicant

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold ("Complainant") brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about February 15, 2013, the Board of Pharmacy ("Board") received an
21 application for a Pharmacy Technician Registration from Hannary Tena Nork ("Respondent"). On
22 or about February 6, 2013, Respondent certified under penalty of perjury to the truthfulness of all
23 statements, answers, and representations in the application. The Board denied the application on
24 July 1, 2013.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code unless otherwise
28 indicated.

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

4

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

8

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

14

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

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment."

4 **REGULATORY PROVISIONS**

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

6 "For the purpose of denial, suspension, or revocation of a personal or facility license
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
10 licensee or registrant to perform the functions authorized by his license or registration in a manner
11 consistent with the public health, safety, or welfare."

12 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

13 8. "Marijuana," is a schedule I controlled substance as defined in Health and Safety Code
14 section 11054, subdivision (d)(13), and is categorized as a dangerous drug pursuant to section
15 4022.

16 **FIRST CAUSE FOR DENIAL OF APPLICATION**

17 **(Conviction of a Substantially Related Crime)**

18 9. Respondent's application is subject to denial under section 480, subdivision (a)(1),
19 section 480, subdivision (a)(3), and section 4301, subdivision (l), in that Respondent was
20 convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy
21 technician, as follows:

22 a. On or about July 8, 2008, after pleading nolo contendere, Respondent was convicted
23 of one misdemeanor count of violating Penal Code section 487, subdivision (a) [grand theft of
24 personal property], in the criminal proceeding entitled *The People of the State of California v.*
25 *Hannary Tena Nork* (Super. Ct. Los Angeles County, 2008, No. 8PK02932.) The Court
26 sentenced Respondent to serve three days in Los Angeles County Jail and placed him on probation
27 for 3 years.

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1 marijuana that morning. The detective then told Respondent it was a bad idea to smoke marijuana
2 before an interview with a police detective and the detective declined to further interview
3 Respondent.

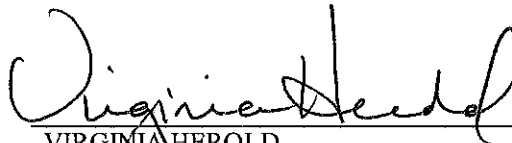
4 **PRAYER**

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

- 7 1. Denying the application of Respondent for a Pharmacy Technician Registration; and,
8 2. Taking such other and further action as deemed necessary and proper.

9
10
11 DATED: _____

2/4/14



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

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