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8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	In the Matter of the Statement of Issues Case No. 4947 Against:
12	HANNARY TENA NORK STATEMENT OF ISSUES
13	Pharmacy Technician Registration Applicant
14	Respondent.
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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	STATEMENT OF ISSUES

4. Section 4300 provides in pertinent part, that every license issued by the Board is 1 2 subject to discipline, including suspension or revocation. **STATUTORY PROVISIONS** 3 5. Section 480 states, in pertinent part: 4 "(a) A board may deny a license regulated by this code on the grounds that the applicant 5 has one of the following: 6 "(1) Been convicted of a crime. A conviction within the meaning of this section means a 7 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a 8 board is permitted to take following the establishment of a conviction may be taken when the time 9 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an 10 order granting probation is made suspending the imposition of sentence, irrespective of a 11 subsequent order under the provisions of Section 1203.4 of the Penal Code. 12 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially 13 benefit himself or herself or another, or substantially injure another. 14 "(3) (A) Done any act that if done by a licentiate of the business or profession in question, 15 would be grounds for suspension or revocation of license. 16 (B) The board may deny a license pursuant to this subdivision only if the crime or act 17 is substantially related to the qualifications, functions, or duties of the business or profession for 18 which application is made. 19 "(b) Notwithstanding any other provision of this code, no person shall be denied a license 20 solely on the basis that he or she has been convicted of a felony if he or she has obtained a 21 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of 22 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has 23 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate 24 the rehabilitation of a person when considering the denial of a license under subdivision (a) of 25 Section 482." 26 6. Section 4301 states, in pertinent part: 27 28

"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:

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.

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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."

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

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	<b>CONTROLLED SUBSTANCE/DANGEROUS DRUG</b>
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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	STATEMENT OF ISSUES

b. The circumstances surrounding the conviction are that on or about May 13, 2008, 1 Respondent was detained at a Washington Mutual Bank when he was attempting to withdraw 2 funds from an account that had been flagged due to recent suspicious activity. Several deposits 3 and withdrawals had been made from the account in a short period of time, with many of the 4 transactions occurring on the same day. Deposits had also been made in several different cities and 5 then withdrawn in yet another different city during this short time period. The checks deposited by 6 Respondent had also been made out from an account that had previously been closed due to 7 suspicious activity and, correspondingly, were not valid. Respondent was subsequently arrested 8 for violating Penal Code section 470 [forgery] and Penal Code section 487, subdivision (a) [grand 9 theft]. 10 SECOND CAUSE FOR DENIAL OF APPLICATION 11 (Acts Involving Dishonesty, Fraud, or Deceit) 12 10. Respondent's application is subject to denial under section 480, subdivision (a)(2), and 13 section 4301, subdivision (f), in conjunction with section 480, subdivision (a)(3)(A), in that 14 Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially 15 benefit himself or another, or substantially injure another. Complainant refers to, and by this 16 reference incorporates, the allegations set forth above in paragraph 9, subparagraph (b), as though 17 set forth fully. 18 THIRD CAUSE FOR DENIAL OF APPLICATION 19 (Use of a Controlled Substance) 20 Respondent's application is subject to denial under section 4301, subdivision (h), in 11. 21 conjunction with section 480, subdivision (a)(3), in that Respondent admittedly used a controlled 22 substance. On or about June 10, 2008, a detective for the Pomona Police Department received a 23 phone call from Respondent. Respondent requested an appointment to discuss the May 13, 2008, 24 incident described in paragraph 9, and the detective made an appointment for that same day. 25 When Respondent arrived for the appointment, the detective observed that Respondent was 26 exhibiting objective symptoms of being under the influence of marijuana. The detective asked 27 Respondent when he last smoked marijuana and Respondent admitted that he had smoked 28

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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	<u>PRAYER</u>
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.
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10	DATED: 2/4/14 Criginia Deeda
11	VIRGINIAHEROLD
12	Executive Officer Board of Pharmacy
13	Department of Consumer Affairs State of California
14	Complainant
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