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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:  
12 **KEVIN GARRETT HASSENKAMP**  
13 Pharmacy Technician License Applicant  
14 Respondent.

Case No. 6047

**STATEMENT OF ISSUES**

16 Complainant alleges:

17 **PARTIES**

- 18
- 19 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs  
21 (Board).
- 22 2. On or about July 18, 2016, the Board received an application for a Pharmacy  
23 Technician License from Kevin Garrett Hassenkamp (Respondent). On or about July 12, 2016,  
24 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and  
25 representations in the application. The Board denied the application on December 21, 2016.

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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 unless otherwise  
4 indicated.

5 4. Section 4300 provides in pertinent part, that every license issued by the Boards is  
6 subject to discipline, including suspension or revocation.

7 5. Section 4300.1 states:

8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
9 operation of law or by order or decision of the board or a court of law, the placement of a license  
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 6. Section 480 states, in pertinent part:

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

17 "(1) Been convicted of a crime. A conviction within the meaning of this section means  
18 a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
19 board is permitted to take following the establishment of a conviction may be taken when the time  
20 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an  
21 order granting probation is made suspending the imposition of sentence, irrespective of a  
22 subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

23 . . . .

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

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

1           “(b) Notwithstanding any other provision of this code, a person shall not be denied a  
2 license solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
3 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
4 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
5 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
6 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
7 Section 482.

8           “(c) Notwithstanding any other provisions of this code, a person shall not be denied a  
9 license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4,  
10 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been  
11 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof  
12 of the dismissal.

13           “(d) A board may deny a license regulated by this code on the ground that the applicant  
14 knowingly made a false statement of fact that is required to be revealed in the application for the  
15 license.”

16           7. Section 490 provides, in pertinent part, that a board may suspend or revoke a license  
17 on the ground that the licensee has been convicted of a crime substantially related to the  
18 qualifications, functions, or duties of the business or profession for which the license was issued.

19           8. Section 4301 states, in pertinent part:

20           “The board shall take action against any holder of a license who is guilty of unprofessional  
21 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is  
22 not limited to, any of the following:

23           . . . .

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

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

....

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

**REGULATORY PROVISIONS**

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

"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."

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

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

3 10. Respondent's application is subject to denial under section 480, subdivision (a)(1), in  
4 that on or about September 8, 2015, Respondent was convicted of a substantially related crime.  
5 The circumstances are as follows:

6 a. On or about September 8, 2015, Respondent was convicted of violating Missouri  
7 Government Code 342, section 342.020 for driving while under the influence of alcohol with a  
8 blood alcohol content of .212% in the criminal proceeding entitled *City of Maryville v. Kevin*  
9 *Hassenkamp*, (Circ. Ct. Nodaway County, 2015, No. 131724817). The Court sentenced  
10 Respondent to serve a formal two year probation but the court subsequently suspended this  
11 sentence and imposed a lesser charge of Missouri Code Chapter 31, section 31.2 [suspended  
12 imposition of sentence]. Respondent pled guilty to a lesser charge of disorderly conduct and was  
13 ordered to pay a fine and complete a Substance Abuse Traffic Offender Program.

14 b. The circumstances surrounding the conviction are that on or about April 4, 2015,  
15 Respondent drove a vehicle while under the influence of alcohol. Respondent was in the Drive-  
16 Thru line at a McDonald's restaurant waiting for his food when an employee at the establishment  
17 called the police alerting them to a possible intoxicated driver. Respondent was subsequently  
18 questioned by police, failed sobriety tests, and was placed under arrest on suspicion of driving  
19 while under the influence.

20 **SECOND CAUSE FOR DENIAL OF APPLICATION**

21 **(False Statement in License Application)**

22 11. Respondent's application is subject to denial under section 480, subdivision (d) in that  
23 on or about July 12, 2016, the Respondent knowingly made a false statement of fact that was  
24 required to be revealed in his application for licensure when he failed to disclose the conviction  
25 described in paragraph 10. The application for licensure specifically requested the disclosure of a  
26 guilty plea to any crime in any state including any felony or misdemeanor offense and any  
27 infraction involving drug or alcohol with a fine of \$500 or more. Complainant refers to and by  
28

1 this reference incorporates the allegations set forth above in paragraph 10, as though set forth  
2 fully.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Acts Warranting Licensee Discipline)**

5 12. Respondent's application is subject to denial under section 480, subdivisions  
6 (a)(3)(A)(B), in conjunction with California Code of Regulations, title 16, section 1770, in that  
7 Respondent committed acts which if done by a licensee would be grounds for discipline, as  
8 Respondent violated sections, as follows:

9 a. Respondent violated sections 490, 4300 and 4301, subdivision (l), in that  
10 Respondent sustained a criminal conviction on or about September 9, 2015. Complainant refers  
11 to and by this reference incorporates the allegations set forth above in paragraph 10, as though  
12 set forth fully.

13 b. Respondent violated sections 4300 and 4301, subdivision (f), in that on or about  
14 July 7, 2016, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or  
15 corruption when completing his license application with the Board. Complainant refers to and by  
16 this reference incorporates the allegations set forth above in paragraph 11, inclusive, as though set  
17 forth fully.

18 c. Respondent violated sections 4300 and 4301, subdivision (h), in that on or  
19 about April 4, 2015, Respondent used alcoholic beverages to the extent or in a manner as to be  
20 dangerous or injurious to himself or others when he drove while under the influence of alcohol.  
21 Complainant refers to and by this reference incorporates the allegations set forth above in  
22 paragraph 10, inclusive, as though set forth fully.

23 e. Respondent violated sections 4300 and 4301, subdivision (p), on the grounds of  
24 unprofessional conduct, in that on or about April 4, 2015, Respondent engaged in action or  
25 conduct that would have warranted the denial of a license. Complainant refers to and by this  
26 reference incorporates the allegations set forth above in paragraphs 10 and 11, inclusive, as  
27 though set forth fully.

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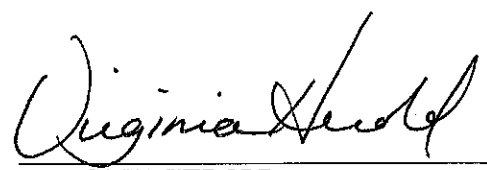
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PRAYER

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 Kevin Garrett Hassenkamp for a Pharmacy Technician License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 4/13/17



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

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