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

12 In the Matter of the Statement of Issues  
Against:

13 **SUKHBIR SINGH BRAR**

14 **Pharmacy Technician License Applicant**

15 Respondent.

Case No. 6074

16 **STATEMENT OF ISSUES**

17 Virginia Herold (“Complainant”) alleges:

18 **PARTIES**

19 1. Complainant brings this Statement of Issues solely in her official capacity as the  
20 Executive Officer of the Board of Pharmacy (“Board”), Department of Consumer Affairs.

21 2. On or about May 16, 2016, the Board received an application for a Pharmacy  
22 Technician License from Sukhbir Singh Brar (“Respondent”). On or about May 12, 2016,  
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and  
24 representations in the application. The Board denied the application on February 10, 2017.

25 **JURISDICTION**

26 3. Pursuant to Business and Professions Code (“Code”) section 485, subdivision (b), on  
27 or about February 10, 2017, Respondent’s application was denied and he was notified of the right  
28 to a hearing to appeal that denial.

1 4. On or about February 17, 2017, Respondent requested a hearing to appeal the denial  
2 of his application.

3 **STATUTORY PROVISIONS**

4 5. Section 480 of the Code states, in pertinent part:

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

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

14 ...

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

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

20 6. Code section 4301 states, in pertinent part:

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

25 ...

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

...

(k) The conviction of more than one misdemeanor or any felony involving  
the use, consumption, or self administration of any dangerous drug or alcoholic  
beverage, or any combination of those substances.

(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

1 be conclusive evidence only of the fact that the conviction occurred. The board may  
2 inquire into the circumstances surrounding the commission of the crime, in order to  
3 fix the degree of discipline or, in the case of a conviction not involving controlled  
4 substances or dangerous drugs, to determine if the conviction is of an offense  
5 substantially related to the qualifications, functions, and duties of a licensee under this  
6 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
7 contendere is deemed to be a conviction within the meaning of this provision. The  
8 board may take action when the time for appeal has elapsed, or the judgment of  
9 conviction has been affirmed on appeal or when an order granting probation is made  
10 suspending the imposition of sentence, irrespective of a subsequent order under  
11 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
12 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
13 dismissing the accusation, information, or indictment.

### 8 FIRST CAUSE FOR DENIAL OF APPLICATION

#### 9 (Criminal Convictions)

10 7. Respondent's application is subject to denial under Code section 480,  
11 subdivision (a)(1), in that Respondent was convicted of crimes substantially related to the  
12 qualifications, functions and duties of a pharmacy technician, as follows:

13 a. On or about February 15, 2001, in a criminal proceeding entitled *People v. Sukhbir*  
14 *Singh Brar* (Solano County Super. Ct., Case No. FCR187734), Respondent was convicted by the  
15 court on his plea of nolo contendere to violating Vehicle Code section 23152, subdivision (b)  
16 (driving with a blood alcohol of 0.08 percent or higher), a misdemeanor. The circumstances are  
17 as follows: On or about December 2, 2000, a traffic enforcement stop was conducted on  
18 Respondent where he was found driving under the influence of alcohol.

19 b. On or about May 24, 2010, in a criminal proceeding entitled *People v. Sukhbir Singh*  
20 *Brar* (Fresno County Super. Ct., Case No. M10914722), Respondent was convicted by the court  
21 on his plea of nolo contendere to violating Vehicle Code section 23152, subdivision (b) (driving  
22 with a blood alcohol of 0.08 percent or higher), a misdemeanor, with one prior. The imposition  
23 of Respondent's sentence was suspended and three (3) years of conditional probation was  
24 granted. The circumstances are as follows: On or about February 28, 2010, Respondent was  
25 approaching the Sobriety/Driver's License checkpoint conducted by Fresno Police Department  
26 (FPD) officers at a high rate of speed. Respondent was commanded to stop his vehicle after he  
27 failed to stop at the designated area and drove past by approximately seven (7) to ten (10) feet.  
28 Upon initial contact, a FPD officer asked Respondent why he did not stop and Respondent

1 explained that he thought the officer was waiving him through. The FPD officer observed  
2 Respondent to have red, bloodshot eyes, slurred speech and had a strong odor of alcoholic  
3 beverage emitting from his breath. Respondent admitted to consuming alcoholic beverages prior  
4 to driving. The FPD Officer conducted field sobriety tests with Respondent, which he was unable  
5 to satisfactorily perform. Respondent consented to a Preliminary Alcohol Screening ("PAS") test  
6 that measured his blood alcohol level at 0.104 percent.

7 c. On or about August 21, 2014, in the criminal proceeding entitled *People v. Sukhbir*  
8 *Singh Brar* (Fresno County Super. Ct., Case No. M14918138), Respondent was convicted by the  
9 court on his plea of guilty to violating Vehicle Code section 23152, subdivision (b) ((driving with  
10 a blood alcohol of 0.08 percent or higher), a misdemeanor, with priors. The imposition of  
11 Respondent's sentenced was suspended and three (3) years of conditional probation was granted.  
12 The circumstances are as follows: On or about March 8, 2014, a California Highway Patrol  
13 ("CHP") officer conducted a traffic enforcement stop on Respondent for failing to stop at a stop  
14 sign. Upon initial contact, the CHP officer detected the odor of an alcoholic beverage emitting  
15 from within Respondent's vehicle. After Respondent exited his vehicle upon the CHP officer's  
16 directive, the CHP officer observed that Respondent had an unsteady gait, his speech was slurred  
17 and his eyes were red and watery. A second CHP Officer was requested to conduct a driving  
18 under the influence ("DUI") evaluation. Upon arrival to the scene, the CHP officer conducted  
19 field sobriety tests with Respondent which he was unable to satisfactorily perform. Respondent  
20 submitted to a blood test measured his blood alcohol level at 0.14 percent.

21 **SECOND CAUSE FOR DENIAL OF APPLICATION**

22 **(Committed Acts which if Done by a Licentiate Would Be Grounds for Discipline)**

23 8. Respondent's application is subject to denial under Code section 480,  
24 subdivision (a)(3)(A), in that Respondent committed acts that if done by a licensed pharmacy  
25 technician would be grounds for discipline, as follows:

26 a. Respondent was convicted of crimes substantially related to the qualifications,  
27 functions and duties of a pharmacy technician, as more particularly set forth above in

28 ///

1 paragraph 7, subparagraphs a, b, and c, which are grounds for discipline under Code section 4301,  
2 subdivision (l).

3 b. Respondent used alcoholic beverages to an extent or in a manner dangerous or  
4 injurious to himself or others, as more particularly set forth above in paragraph 7,  
5 subparagraphs a, b, and c, which is grounds for discipline under Code section 4301,  
6 subdivision (h).

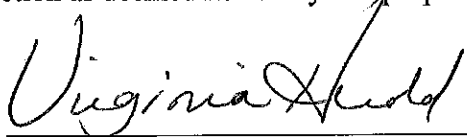
7 c. Respondent was convicted of a crime involving alcoholic beverages, as more  
8 particularly set forth above in paragraph 7, subparagraphs a, b, and c, which is grounds for  
9 discipline under Code section 4301, subdivision (k).

10 **PRAYER**

11 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
12 and that following the hearing, the Board of Pharmacy issue a decision:

- 13 1. Denying the application of Sukhbir Singh Brar for a Pharmacy Technician License;
- 14 2. Taking such other and further action as deemed necessary and proper.

15  
16 DATED: 6/9/17



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

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