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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
12 Against:

Case No. 3718

13 **THOMAS PAUL SLEVIN**
14 310 Carolyn Street
Auburn, CA 95603

STATEMENT OF ISSUES

15 Applicant for Pharmacy Technician

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

24 **Application for Registration as a Pharmacy Technician**

25 2. On or about May 6, 2009, the Board received an Application for Registration as a
26 Pharmacy Technician from Thomas Paul Slevin (Respondent). On or about April 29, 2009,
27 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
28 representations in the application. The Board denied the application on April 13, 2010.

STATUTORY PROVISIONS

3. Section 4300 of the Business and Professions Code (Code) states, in pertinent part:

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

- (1) Medical or psychiatric evaluation.
- (2) Continuing medical or psychiatric treatment.
- (3) Restriction of type or circumstances of practice.
- (4) Continuing participation in a board-approved rehabilitation program.
- (5) Abstention from the use of alcohol or drugs.
- (6) Random fluid testing for alcohol or drugs.
- (7) Compliance with laws and regulations governing the practice of pharmacy.

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

4. California Code of Regulations (CCR), 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.

5. Code section 4301 states:

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:

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

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

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

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

14 (l) The conviction of a crime substantially related to the qualifications,
15 functions, and duties of a licensee under this chapter. The record of conviction of a
16 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
17 States Code regulating controlled substances or of a violation of the statutes of this
18 state regulating controlled substances or dangerous drugs shall be conclusive
19 evidence of unprofessional conduct. In all other cases, the record of conviction shall
20 be conclusive evidence only of the fact that the conviction occurred. The board may
21 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
23 substances or dangerous drugs, to determine if the conviction is of an offense
24 substantially related to the qualifications, functions, and duties of a licensee under this
25 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
26 contendere is deemed to be a conviction within the meaning of this provision. The
27 board may take action when the time for appeal has elapsed, or the judgment of
28 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.

5. Section 480 of the Code states:

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

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.

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

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

4 (b) Notwithstanding any other provision of this code, no person shall be
5 denied a license solely on the basis that he or she has been convicted of a felony if he
6 or she has obtained a certificate of rehabilitation under Chapter 3.5 (commencing
7 with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
8 convicted of a misdemeanor if he or she has met all applicable requirements of the
9 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
10 person when considering the denial of a license under subdivision (a) of Section 482.

11 **FIRST CAUSE FOR DENIAL OF APPLICATION**

12 **(Criminal Convictions)**

13 6. Respondent's application is subject to denial pursuant to Code section 4301,
14 subdivisions (k) and (l), in conjunction with Code section 480, subdivision (a)(1), in that
15 Respondent has been convicted of the following crimes that are substantially related to the
16 qualifications, functions, and duties of a registered pharmacy technician:

17 a. On June 17, 1993, in the Justice Court, County of Lyon, Nevada, in the matter
18 entitled *The State of Nevada, County of Lyon vs. Thomas Paul Slevin* (1993), Case No. 92-00501,
19 Respondent was convicted by the court following his plea of nolo contendere to a violation of
20 NRS-200.481 [battery], a misdemeanor.

21 b. On May 25, 1994, in the Justice Court, County of Carson, Nevada, in Case No.
22 013011J, Respondent was convicted by the court of driving under the influence of alcohol on
23 May 9, 1994.

24 c. On October 30, 1997, in the Superior Court, County of Placer, California, in the
25 matter titled *People vs. Thomas Paul Slevin* (1997), Case No. A41879, Respondent was convicted
26 by the court of a violation of Vehicle Code section 23152, subdivision (a) [driving under the
27 influence of alcohol], a misdemeanor.

28 d. In or about 1999, in the District Court of the 4th Judicial District of Idaho, County of
Ada, pursuant to Misdemeanor Citation No. 661863, Respondent was convicted by the court
following his plea of no contest to a violation of Code section 37-2734A [possession of drug
paraphernalia] a misdemeanor.

1 e. On April 27, 1999, in the Superior Court, County of Placer, California, in the matter
2 titled *People vs. Thomas Paul Slevin* (1998), Case No. 62-3161, Respondent was convicted by the
3 court following his plea of nolo contendere to violating Vehicle Code section 23152, subdivision
4 (a) [driving under the influence of alcohol on June 7, 1998], with priors, a felony; his BAC
5 measured .13%.

6 f. On April 27, 1999, in the Superior Court, County of Placer, California, in the matter
7 titled *People vs. Thomas Paul Slevin* (1998), Case No. 62-2622, Respondent was convicted by the
8 court following his plea of nolo contendere to violating Vehicle Code section 23152, subdivision
9 (a) [driving under the influence of alcohol on May 20, 1998], a misdemeanor; his BAC measured
10 .10%.

11 g. On April 10, 2001, in the Superior Court, County of Placer, California, in the matter
12 titled *People vs. Thomas Paul Slevin* (2001), Case No. 62-19885, Respondent was convicted by
13 the court following his plea of guilty to a violation of Vehicle Code section 23152, subdivision (a)
14 [driving under the influence of alcohol on February 17, 2001], with priors, a felony; his BAC
15 measured .19%.

16 h. On September 19, 2005, in the Superior Court, County of Placer, California, in the
17 matter titled *People vs. Thomas Paul Slevin* (2005), Case No. 62-052506, Respondent was
18 convicted by the court of a violation of Vehicle Code section 23152, subdivision (a) [driving
19 under the influence of alcohol or drugs], a felony.

20 SECOND CAUSE FOR DISCIPLINE

21 (Acts Which if Done by A Licentiate Would Constitute Suspension 22 or Revocation of a License)

23 7. Respondent's application is subject to denial pursuant to Code section 480,
24 subdivision (a)(3)(A), in that Respondent has committed acts which if done by a licentiate of the
25 profession would constitute cause for suspension or revocation of a license pursuant to Code
26 sections 4301, subsections (f), (h), (j), (k), (l), and (p).

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PRAYER

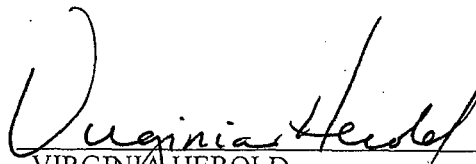
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2 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Denying the application of Thomas Paul Slevin for a pharmacy technician
5 registration; and,

6 2. Taking such other and further action as deemed necessary and proper.

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9 DATED: _____

9/23/10



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

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