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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:
12 **NIMA HEIDARY**
13 **15 Rollingwood Drive**
14 **Rolling Hills Estates, CA 90274**
Pharmacy Technician Registration Number
Applicant
15 Respondent.

Case No. 3994

STATEMENT OF ISSUES

17 Complainant alleges:

18 **PARTIES**

- 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 2. On or about January 29, 2010, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician Registration Number from Nima
23 Heidary (“Respondent”). On or about January 25, 2010, Nima Heidary certified under penalty of
24 perjury to the truthfulness of all statements, answers, and representations in the application. The
25 Board denied the application on October 26, 2010.
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1 **JURISDICTION**

2 3. This Statement of Issues is brought before the Board of Pharmacy ("Board"),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 of the Code provides, in pertinent part:

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

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

18 (2) Done any act involving dishonesty, fraud, or deceit with
19 the intent to substantially benefit himself or herself or another, or
20 substantially injure another.

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

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

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

REGULATORY PROVISIONS

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

"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

1 shall be considered substantially related to the qualifications,
2 functions or duties of a licensee or registrant if to a substantial
3 degree it evidences present or potential unfitness of a licensee or
4 registrant to perform the functions authorized by his license or
5 registration in a manner consistent with the public health, safety, or
6 welfare."

7 6. California Code of Regulations, title 16, section 1769, provides:

8 "(a) When considering the denial of a facility or personal license
9 under Section 480 of the Business and Professions Code, the board,
10 in evaluating the rehabilitation of the applicant and his present
11 eligibility for licensing or registration, will consider the following
12 criteria:

13 (1) The nature and severity of the act(s) or offense(s) under
14 consideration as grounds for denial.

15 (2) Evidence of any act(s) committed subsequent to the
16 act(s) or crime(s) under consideration as grounds for denial under
17 Section 480 of the Business and Professions Code.

18 (3) The time that has elapsed since commission of the act(s)
19 or crime(s) referred to in subdivision (1) or (2).

20 (4) Whether the applicant has complied with any terms of
21 parole, probation, restitution or any other sanctions lawfully
22 imposed against the applicant.

23 (5) Evidence, if any, of rehabilitation submitted by the
24 applicant..."

25 **FIRST CAUSE FOR DENIAL OF APPLICATION**

26 **(Conviction for a Substantially Related Crime)**

27 7. Respondent's application is subject to denial under section 480, subdivision (a)(1)
28 of the Code in that he was convicted of a crime that is substantially related to the qualifications,
functions, and duties of a pharmacy technician. The circumstances are as follows:

8. On or about November 27, 2006, in the criminal matter entitled *People of the State of California v. Nima Heidary* (Los Angeles County Superior Court Case No. 6MP10682), Respondent was convicted of violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol level .08% or above, and violating Vehicle Code section 14601, subdivision (a), driving with a suspended drivers license, both misdemeanors. Respondent also admitted to having suffered two prior driving under the influence related convictions. Respondent was sentenced to probation for a period of five years. Among the terms and conditions of probation, he was ordered to serve one-hundred twenty days in jail and pay court fines.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Conviction for a Substantially Related Crime)

9. Respondent's application is subject to denial under section 480, subdivision (a)(1) of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows:

10. On or about April 20, 2004, in the criminal matter entitled *People of the State of California v. Nima Heidary* (Los Angeles County Superior Court Case No. 3SB08903), Respondent was convicted of violating Vehicle Code section 23103, reckless driving, and was sentenced pursuant to Vehicle Code section 23103.5, because the reckless driving was alcohol related. Respondent was sentenced to three years of probation. Among the terms and conditions of probation, Respondent was ordered to complete fourteen hours of work with the Cal-Trans work alternative program, pay court fines, attend an alcohol education program through the Department of Motor Vehicles, and obey all laws. The basis for the conviction is that on or about October 25, 2003, while driving under the influence of a central nervous system depressant and marijuana, Respondent drove a motor vehicle and collided with another motor vehicle causing injury to the other driver.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Conviction for a Substantially Related Crime)

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

12. On or about October 23, 2003, in the criminal matter entitled *People of the State of California v. Nima Heidary* (Los Angeles County Superior Court Case No. 3SB06366), Respondent was convicted of violating Vehicle Code section 23103, reckless driving, and was sentenced pursuant to Vehicle Code section 23103.5, because the reckless driving was alcohol related. Respondent was sentenced to three years of probation. Among the terms and conditions of probation, Respondent was ordered to complete seventy-seven hours of community service

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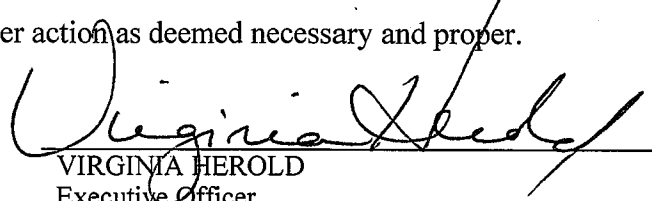
work, pay court fines, attend an alcohol education program through the Department of Motor Vehicles, and obey all laws.

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 Nima Heidary for a Pharmacy Technician Applicant;
2. Taking such other and further action as deemed necessary and proper.

DATED: 6/2/11



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

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