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

11 In the Matter of the Statement of Issues
Against:

Case No. 4422

12 **RONALD ANDREW WERNER**

STATEMENT OF ISSUES

13 **Pharmacy Technician Registration**
14 **Applicant**

15 Respondent.

16
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 March 15, 2012, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician Registration from Ronald Andrew
23 Werner (Respondent). On or about March 12, 2012, Ronald Andrew Werner certified under
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the
25 application. The Board denied the application on July 26, 2012.
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1 moderate damage, as the rear bumper was torn off and the rear muffler was hanging loosely from
2 its bracing. Driver provided Officer 1 a physical description of the driver of the vehicle that had
3 hit her, later identified as Respondent. Driver explained that she was stopped at a red signal lamp
4 for about one minute when she felt the impact to the rear of her vehicle. She looked into her rear-
5 view mirror and saw that she had been rear-ended by another vehicle. The vehicle that hit her
6 was filled with smoke, and Driver was afraid it would catch on fire. Driver and Passenger exited
7 their vehicle and looked into Respondent's vehicle in an attempt to determine whether he was
8 okay. As the smoke in Respondent's vehicle began to dissipate, Driver and Passenger walked up
9 to the passenger-side window. They could see that the airbags had deployed, and they saw
10 Respondent sitting inside. Respondent then turned the vehicle to the right and drove away.
11 Passenger and Driver wrote down the license plate number of Respondent's vehicle before he fled
12 the scene of the accident, and they provided this information to Officer 1.

13 10. A second officer from the Watsonville Police Department, Officer 2, responded to
14 assist with the hit-and-run report. Officer 2 began searching the area for the vehicle identified by
15 Driver and Passenger. Using the license plate number to determine the registered owner, Officer
16 2 went to the home address of the registered owner, later identified as Respondent. Nobody was
17 home and the vehicle was not there. Officer 2 left and went to check for Respondent and his
18 vehicle at the local hospital. Officer 2 then returned to Respondent's home address and parked
19 several houses away to watch for Respondent's arrival.

20 11. At approximately 7:55 p.m., Officer 2 observed Respondent's vehicle drive past him
21 and park in the driveway of his home address. Officer 2 parked behind Respondent's vehicle and
22 illuminated his spot light. Officer 2 observed that there was one occupant in the vehicle, later
23 identified as Respondent. Respondent exited the vehicle and said "hello" to Officer 2.
24 Respondent staggered as he began walking towards Officer 2, placing a hand on his vehicle to
25 maintain his balance. Officer 2 asked Respondent what was going on, and Respondent began to
26 explain that he hit the car in front of him because it stopped suddenly. Respondent stated that the
27 people in the vehicle got out and began yelling at him, so he left.

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1 12. As Respondent explained what had happened during the accident, Officer 2 observed
2 that Respondent's eyes were bloodshot and glassy, his speech was slurred, and his balance was
3 impaired. Respondent's breath also smelled like alcohol. Respondent admitted that he had
4 consumed one drink prior to driving, but stated that he had not consumed alcohol since the
5 accident. Officer 2 administered several Field Coordination Tests (FCTs) to determine whether
6 Respondent was too intoxicated to drive. Respondent failed to complete or pass the FCTs, and
7 Officer 2 placed him under arrest for driving while intoxicated. Driver and Passenger were
8 brought to Officer 2's location to view Respondent. Passenger positively identified Respondent
9 as the driver of the vehicle that hit them.

10 13. Respondent was transported to the Watsonville Police Station. Respondent was
11 administered the breath test twice, which showed that his blood alcohol level was .16 percent and
12 .17 percent. Respondent waived his Miranda rights and gave Officer 1 his account of the
13 accident. Respondent admitted that he fled the scene. Officer 1 determined that Respondent
14 caused the collision by driving under the influence of alcohol or drugs.

15 SECOND CAUSE FOR DENIAL OF APPLICATION

16 (Conviction of Substantially Related Crime)

17 (Bus. & Prof. Code §§ 480, subd. (a)(1), 4301, subd. (1); Cal. Code Regs., tit. 16, § 1770)

18 14. Complainant realleges the allegations contained in paragraphs 8 through 13 above,
19 and incorporates them by reference as if fully set forth.

20 15. Respondent's application is subject to denial under Code section 480, subdivision
21 (a)(1), by reference to Code section 4301, subdivision (1), and as defined by California Code of
22 Regulations, title 16, section 1770, in that he was convicted of a crime substantially related to the
23 qualifications, functions, and duties of a licensee. The circumstances are that on or about January
24 26, 2006, in a criminal matter entitled *The People of the State of California v. Ronald Andrew*
25 *Werner*, in Santa Cruz County Superior Court, Case No. W10369, Respondent was convicted by
26 plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b) (driving while
27 having a .08 percent or higher blood alcohol content), a misdemeanor. Respondent was sentenced
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1 to serve his jail sentence through a work release program, ordered to complete a 3 month First
2 Offender Drinking Driver Program, and to pay various fees and fines.

3 THIRD CAUSE FOR DENIAL OF APPLICATION

4 (Unprofessional Conduct – Dangerous or Injurious Use of Alcohol)
5 (Bus. & Prof. Code §§ 480, subd. (a)(3), 4301, subd. (h))

6 16. Respondent's application is subject to denial under Code section 480, subdivision
7 (a)(3), by reference to Code section 4301, subdivision (h), in that Respondent engaged in
8 unprofessional conduct by using alcohol in a dangerous and injurious manner. The circumstances
9 are as follows:

10 17. On or about October 25, 2011, at approximately 7:20 p.m., a California Highway
11 Patrol (CHP) officer was dispatched to a report of a vehicle blocking an intersection. The officer
12 arrived on scene at 7:28 p.m. and observed a vehicle blocking the roadway. The officer parked
13 his vehicle directly behind the vehicle and approached the driver's side. The officer observed a
14 man, later identified as Respondent, sitting in the driver's seat with the engine running and the
15 vehicle in park. The headlights were on, the driver's window was rolled half-way down, and
16 Respondent was leaning to his right and slightly forward. The officer observed a small metal can
17 between Respondent's thighs. After speaking with the woman who reported the vehicle, the
18 officer returned to the vehicle and removed the keys from the ignition. The officer contacted
19 Respondent through the driver's side window and attempted to wake him, but he was initially
20 unresponsive. The officer requested medical personnel to come and evaluate Respondent. The
21 officer continued shaking Respondent and telling him to wake-up until Respondent finally awoke
22 and stated "Fuck you."

23 18. The officer asked Respondent what had happened, but Respondent's responses were
24 incoherent because his speech was heavily slurred. The officer directed Respondent out of the
25 vehicle. Respondent slowly exited the vehicle, but was unable to stand. The officer held
26 Respondent up, walked him toward his patrol vehicle, and had Respondent sit in the rear of the
27 vehicle. The officer obtained the can that was between Respondent's thighs and poured it onto
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1 the ground. The contents smelled like an alcoholic beverage. Medical personnel arrived and
2 evaluated Respondent. They determined that Respondent was not having a medical emergency.

3 19. The CHP officer re-contacted Respondent and began a DUI investigation.
4 Respondent was able to stand on his own at this point, but his gait was unsteady and he nearly fell
5 over several times. Respondent smelled like alcohol and had red and watery eyes. His speech
6 was coherent but still heavily slurred. Respondent stated that he had consumed a couple of club
7 sodas prior to driving. The officer conducted a series of Field Sobriety Tests (FSTs), which
8 Respondent was unable to complete satisfactorily. The officer determined that Respondent had
9 been operating a motor vehicle while under the influence of an alcoholic beverage and he placed
10 him under arrest for violating Vehicle Code section 23152, subdivision (a) (driving under the
11 influence).

12 20. During the inventory of Respondent's vehicle, another CHP officer located several
13 containers of alcohol, including three open cans. Two of the open cans were empty and the third
14 had been poured out onto the roadway by the arresting officer. There were also three unopened
15 cans of alcohol, one unopened Vodka bottle, and one half-empty Vodka bottle.

16 21. Respondent was transported to Dominican Hospital for a chemical test. Respondent
17 consented to a blood test. The results of the blood test showed that Respondent had a blood
18 alcohol content of 0.25%.

19 FOURTH CAUSE FOR DENIAL OF APPLICATION

20 (Conviction of Substantially Related Crime)

21 (Bus. & Prof. Code §§ 480, subd. (a)(1), 4301, subd. (l); Cal. Code Regs., tit. 16, § 1770)

22 22. Complainant realleges the allegations contained in paragraphs 16 through 21 above,
23 and incorporates them by reference as if fully set forth.

24 23. Respondent's application is subject to denial under Code section 480, subdivision
25 (a)(1), by reference to Code section 4301, subdivision (l), and as defined by California Code of
26 Regulations, title 16, section 1770, in that he was convicted of a crime substantially related to the
27 qualifications, functions, and duties of a licensee. The circumstances are that on or about January
28 12, 2012, in a criminal matter entitled *The People of the State of California v. Ronald Andrew*

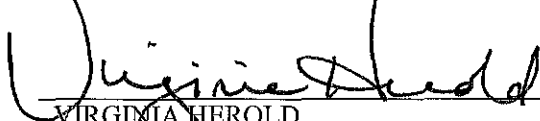
1 *Werner*, in Santa Cruz County Superior Court, Case No. M63447, Respondent was convicted by
2 plea of nolo contendere of violating Vehicle Code section 23152, subdivision (a) (driving under
3 the influence), with a prior conviction of violating Vehicle Code section 23152, subdivision (b), a
4 misdemeanor. Respondent was sentenced to 45 days in jail and ordered to enroll in and complete
5 the Multiple Offense Drinking Driver Program, not operate a motor vehicle with any amount of
6 alcohol in his blood system, and to pay various fees and fines.

7 PRAYER

8 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
9 Statement of Issues, and that following the hearing, the Board of Pharmacy issue a decision:

- 10 1. Denying the application of Ronald Andrew Werner for a Pharmacy Technician
11 Registration; and
12 2. Taking such other and further action as deemed necessary and proper.

13 DATED: 1/18/13


14 VIRGINIA HEROLD
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 *Complainant*

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