

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA  
Deputy Attorney General  
4 State Bar No. 272953  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2554  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
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 **MINA SAFWAT HANNA**  
13 Pharmacy Technician Registration Applicant  
14 Respondent.

Case No. 4487

**STATEMENT OF ISSUES**

15  
16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about March 27, 2012, the Board of Pharmacy, Department of Consumer  
21 Affairs received a Pharmacy Technician Application from Mina Safwat Hanna ("Respondent").  
22 On or about March 22, 2012, Mina Safwat Hanna certified under penalty of perjury to the  
23 truthfulness of all statements, answers, and representations in the application. The Board denied  
24 the application on August 31, 2012.

25 **JURISDICTION AND STATUTORY PROVISIONS**

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

1           4.     Section 480 of the Code states:

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

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

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

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

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

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

25                    (c) A board may deny a license regulated by this code on the ground that  
26                    the applicant knowingly made a false statement of fact required to be revealed in the  
27                    application for the license.”

28           5.     Section 490 of the Code states, in pertinent part:

                   “(a) In addition to any other action that a board is permitted to take  
                   against a licensee, a board may suspend or revoke a license on the ground that the  
                   licensee has been convicted of a crime, if the crime is substantially related to the  
                   qualifications, functions, or duties of the business or profession for which the license  
                   was issued.

                   (b) Notwithstanding any other provision of law, a board may exercise any  
                   authority to discipline a licensee for conviction of a crime that is independent of the  
                   authority granted under subdivision (a) only if the crime is substantially related to the  
                   qualifications, functions, or duties of the business or profession for which the  
                   licensee's license was issued.

                   (c) 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.”

6. Section 4301 of the Code 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:

...

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

...

(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.

...

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.”

**REGULATORY PROVISION**

7. 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 Substantially Related Crimes)**

3 8. Respondent's application is subject to denial under section 480, subdivision (a)(1) of  
4 the Code in conjunction with California Code of Regulations, title 16, section 1770 in that  
5 Respondent was convicted of crimes substantially related to the qualifications, functions and  
6 duties of a pharmacy technician, as follows:

7 9. On or about July 5, 2006, Respondent pled guilty to one misdemeanor count of  
8 violating Vehicle Code section 23222(b) [possess less than one ounce marijuana while driving] in  
9 the criminal proceeding entitled *The People of the State of California v. Mina Safwat Hanna*  
10 (Super. Ct. of California, County of San Bernardino, 2006, Case No. TWV051375). The court  
11 ordered Respondent to pay a fine in the amount of \$75.00. The circumstances underlying the  
12 criminal conviction are that on or about April 28, 2006, County of San Bernardino Sheriff's  
13 Department Officers ("Officers") responded to a report of a suspicious vehicle. The subject  
14 sitting in the driver's seat was identified as Respondent. Upon opening the door of the vehicle,  
15 officers observed a large plume of smoke with the odor of marijuana emanate from the vehicle.  
16 Respondent admitted to smoking marijuana. Officers found a substance consistent with  
17 marijuana in Respondent's pocket and in the rear passenger door. Officers also found numerous  
18 pipes which are used to smoke marijuana.

19 10. On or about March 27, 2008, Respondent pled nolo contendere to one misdemeanor  
20 count of violating Penal Code section 490.5(a) [petty theft: retail merchandise] in the criminal  
21 proceeding entitled *The People of the State of California v. Mina Safwat Hanna* (Super. Ct. of  
22 California, County of San Bernardino, 2008, Case No. MWV707492). The court ordered  
23 Respondent to serve 2 days in a San Bernardino County Jail Facility and placed Respondent on  
24 probation for 24 months, with terms and conditions. The circumstances underlying the criminal  
25 conviction are that on or about October 4, 2007, a San Bernardino County Sheriff's Department  
26 Officer ("Officer") Responded to a Macy's store in reference to a possible theft in progress. The  
27 Officer contacted Respondent. Respondent told the Officer that he entered the Macy's store with  
28 two friends, separated from them, selected a sweater, went into the fitting room, tore off the

1 security sensor and put the sweater inside an Express bag he had with him. Respondent also told  
2 the Officer that he exited the fitting room, found his friends and walked out of the store through  
3 the west doors passing open cash registers.

4 11. On or about March 16, 2010, Respondent pled no contest to one misdemeanor count  
5 of violating Health and Safety Code section 11366 [keep place to sell controlled substance] in the  
6 criminal proceeding entitled *The People of the State of California v. Mina Safwat Hanna* (Super.  
7 Ct. of California, County of San Bernardino, Rancho Cucamonga District, 2009, Case No.  
8 FWV902960). On or about May 20, 2010, Respondent was sentenced to serve 120 days in a San  
9 Bernardino County Jail facility and placed Respondent on probation for 36 months, with terms  
10 and conditions. The circumstances underlying the conviction are that on or about July 1, 2009,  
11 Fontana Police Department Officers ("Officers") conducted an undercover drug sting in which  
12 Officers were to receive approximately 4 ounces of marijuana in exchange for \$1,300.00. After  
13 the exchange, Officers spoke with Respondent who indicated that he received the marijuana from  
14 his cousin, gave the marijuana to the person conducting the transaction and was supposed to bring  
15 the money received at the transaction to his cousin. Respondent was to make \$200.00 from the  
16 deal. Respondent told Officers that he had been doing drug deals for a few weeks.

17 **SECOND CAUSE FOR DENIAL OF APPLICATION**

18 **(Act Involving Dishonesty)**

19 12. Respondent's application is subject to denial under section 480, subdivision (a)(2) of  
20 the Code in that Respondent committed an act involving dishonesty, fraud, or deceit with the  
21 intent to substantially benefit himself or herself or another, or substantially injure another when  
22 he took a sweater from Macy's without paying for it and when he took marijuana from his cousin,  
23 provided it to another for sale and attempted to transport the money back to his cousin. The  
24 conduct is described in more particularity in paragraph 10 above, inclusive and hereby  
25 incorporated by reference.

26 ///

27 ///

28 ///

1 **THIRD CAUSE FOR DENIAL OF APPLICATION**

2 **(Conduct Warranting Discipline of Licensee)**

3 13. Respondent's application is subject to denial under section 480, subdivision (a)(3) of  
4 the Code as defined in section 490 and section 4301, subdivision (l) of the Code in conjunction  
5 with California Code of Regulations, title 16, section 1770 in that Respondent was convicted of  
6 crimes substantially related to the qualifications, functions and duties of a pharmacy technician.  
7 The convictions are described in more particularity in paragraphs 9 and 11 above, inclusive and  
8 hereby incorporated by reference.

9 14. Respondent's application is subject to denial under section 480, subdivision (a)(3) of  
10 the Code as defined in section 490 and section 4301, subdivision (j) of the Code in that  
11 Respondent violated Health and Safety Code section 11366, a statute regulating controlled  
12 substances and dangerous drugs. The violation is described in more particularity in paragraph 11  
13 above, inclusive and hereby incorporated by reference.

14 15. Respondent's application is subject to denial under section 480, subdivision (a)(3) of  
15 the Code as defined in section 490 and section 4301 of the Code in that Respondent committed  
16 unprofessional conduct when he took a sweater from Macy's without paying for it and when he  
17 took marijuana from his cousin, provided it to another for sale and attempted to transport the  
18 money back to his cousin. The conduct is described in more particularity in paragraph 10 above,  
19 inclusive and hereby incorporated by reference.

20 16. Respondent's application is subject to denial under section 480, subdivision (a)(3) of  
21 the Code as defined in section 490 and section 4301, subdivision (o) of the Code in that  
22 Respondent violated provisions of the licensing chapter. The violations are described in more  
23 particularity in paragraphs 13 through 15 above, inclusive and hereby incorporated by reference.

24 ///

25 ///

26 ///

27 ///

28 ///

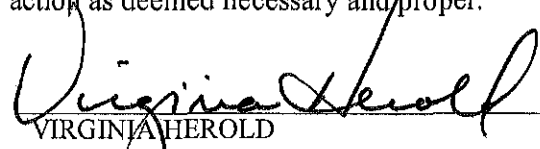
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**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 Mina Safwat Hanna for a Pharmacy Technician Registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 4/4/13

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

LA2012508190  
51198869.doc