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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 Against: Case No. 5105

11 **GABRIEL WONG**

12 **Applicant for Intern Pharmacist License**

13 Respondent.

14 **STATEMENT OF ISSUES**

15 Complainant alleges:

16 PARTIES

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

19 2. On or about October 4, 2013, the Board of Pharmacy, Department of Consumer
20 Affairs received an Application for Registration as an Intern Pharmacist from Gabriel Wong
21 (Respondent). On or about September 19, 2013, Gabriel Wong certified under penalty of perjury
22 as to the truthfulness of all statements, answers, and representations in the Application. The
23 Board denied the application on January 7, 2014.

24 JURISDICTION

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

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1 "The board may deny a license pursuant to this subdivision only if the crime or act is
2 substantially related to the qualifications, functions or duties of the . . . [license]."

3 7. California Code of Regulations, title 16, section 1770, states:

4 "For the purpose of denial, suspension, or revocation of a personal or facility license
5 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
6 crime or act shall be considered substantially related to the qualifications, functions or duties of a
7 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
8 licensee or registrant to perform the functions authorized by his license or registration in a manner
9 consistent with the public health, safety, or welfare."

10 FIRST CAUSE FOR DENIAL OF APPLICATION

11 (Conviction of Substantially Related Crime(s))

12 8. Respondent's application is subject to denial under the following section(s) of the
13 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
14 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
15 crime, in that on or about June 18, 2009, in a criminal case titled *People v. Gabriel Wong*, Case
16 No. 418516-7 in Alameda County Superior Court, Respondent was convicted of violating Vehicle
17 Code section 23152, subdivision (a) (Driving While Under the Influence of Alcohol/Drug), a
18 misdemeanor. The conviction was entered as follows:

19 a. On or about April 3, 2009, Respondent was observed by California Highway Patrol
20 officer(s) driving a vehicle on I-580, too close to another vehicle, and maintaining a steady speed
21 of 90 mph. Respondent was pulled over, at which time the officer(s) detected the odor of alcohol
22 coming from the vehicle. Respondent was unable to successfully perform Field Sobriety Tests
23 (FSTs), and a breath test measured his blood alcohol level at 0.15% or 0.16%.

24 b. On or about April 22, 2009, Respondent was charged by Complaint in Case No.
25 418516-7 in Alameda County Superior Court with violating (1) Vehicle Code section 23152,
26 subdivision (a) (Driving While Under the Influence of Alcohol/Drug), a misdemeanor, and (2)
27 Vehicle Code section 23152, subdivision (b) (Driving With a Blood Alcohol of 0.08% or Higher),
28 a misdemeanor, with an allegation that his blood alcohol was 0.15% percent or more.

1 c. On or about June 18, 2009, Respondent pleaded no contest and was found guilty of
2 count 1 (violation of Vehicle Code section 23152, subdivision (a)). Count 2 was dismissed. The
3 imposition of sentence was suspended and Respondent was placed on court probation for thirty-
4 six (36) months on terms and conditions including two (2) days in county jail (1 day CTS),
5 completion of a three (3) month Level I DUI School, and payment of fines and fees.

6 SECOND CAUSE FOR DENIAL OF APPLICATION

7 (Conviction of Substantially Related Crime(s))

8 9. Respondent's application is subject to denial under the following section(s) of the
9 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and
10 California Code of Regulations, title 16, section 1770, for conviction of a substantially related
11 crime, in that on or about August 5, 2011, in a criminal case titled *People v. Gabriel Wong*, Case
12 No. 561103 in Alameda County Superior Court, Respondent was convicted of violating Vehicle
13 Code section 23152, subdivision (a) (Driving While Under the Influence of Alcohol/Drug), a
14 misdemeanor. The conviction was entered as follows:

15 a. On or about April 30, 2010, Respondent was observed by University of California
16 (Berkeley) Police Department officer(s) driving a vehicle that failed to stop properly at a stop
17 sign, a flashing red light, and a subsequent stop sign. Respondent was pulled over, at which time
18 the officer(s) detected the odor of alcohol coming from the vehicle. Respondent was unable to
19 successfully perform Field Sobriety Tests (FSTs), and refused to provide a blood or urine sample.

20 b. On or about April 30, 2010, Respondent was charged by Complaint in Case No.
21 561103 in Alameda County Superior Court with violating Vehicle Code section 23152,
22 subdivision (a) (Driving While Under the Influence of Alcohol/Drug), a misdemeanor, with an
23 allegation of Respondent's prior June 18, 2009 conviction as described above.

24 c. On or about August 5, 2011, Respondent pleaded no contest and was found guilty of
25 violating Vehicle Code section 23152, subdivision (a). Imposition of sentence was suspended
26 and Respondent was placed on court probation for thirty-six (36) months on terms and conditions
27 including ten (10) days in county jail (1 day CTS), completion of an eighteen (18) month Multiple
28 Offender Drinking Driver Program, and payment of fines and fees.

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THIRD CAUSE FOR DENIAL OF APPLICATION

(Conviction of Alcohol or Drug-Involved Crimes)

10. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301(k); and/or 4300(c) by reference to 4301(k), in that, as described in paragraphs 8 and 9 above, Respondent was convicted of more than one misdemeanor involving the use or consumption of an alcoholic beverage or a dangerous drug.

FOURTH CAUSE FOR DENIAL OF APPLICATION

(Dangerous or Injurious Use of Alcohol/Drug)

11. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301(h); and/or 4300(c) by reference to 4301(h), in that, as described in paragraphs 8 and 9 above, Respondent made dangerous or injurious use of alcohol.

FIFTH CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct)

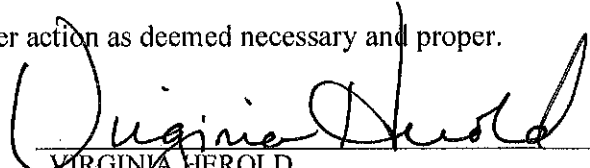
12. Respondent's application is subject to denial under the following section(s) of the Code: 480(a)(3) by reference to 4301; and/or 4300(c) by reference to 4301, in that, as described in paragraphs 8 through 11 above, Respondent engaged in unprofessional conduct.

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 Gabriel Wong for an Intern Pharmacist License;
2. Taking such other and further action as deemed necessary and proper.

DATED: 5/3/14



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

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