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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

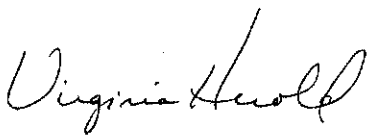
In the Matter of the Statement of Issues
Against:
THOMAS CHOW WANG
Intern Pharmacist Applicant

Respondent.

Case No. 5407

**WITHDRAWAL OF STATEMENT OF
ISSUES**

The Statement of Issues No. 5407 against Thomas Chow Wang (Respondent) is withdrawn without prejudice. Respondent has withdrawn the request for a hearing regarding the denial of the application for an intern pharmacist license. The denial of the application is affirmed.



DATED: 10/12/2015

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

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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. 5407

12 **THOMAS CHOW WANG**

STATEMENT OF ISSUES

13 Intern Pharmacist Applicant

14 Respondent.
15

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 (Board).

22 2. On or about March 27, 2014, the Board received an application for an Intern
23 Pharmacist from Thomas Chow Wang (Respondent). On or about March 23, 2014, Thomas
24 Chow Wang certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on January 7, 2015.

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1 **JURISDICTION**

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

5 **STATUTORY PROVISIONS**

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

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

9 “(1) Been convicted of a crime. A conviction within the meaning of this section means a
10 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
11 board is permitted to take following the establishment of a conviction may be taken when the
12 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
13 an order granting probation is made suspending the imposition of sentence, irrespective of a
14 subsequent order under the provisions of Section 1203.4 of the Penal Code. “(2) Done any act
15 involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or
16 another, or substantially injure another.

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

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

22 “(b) Notwithstanding any other provision of this code, a person shall not be denied a
23 license solely on the basis that he or she has been convicted of a felony if he or she has obtained a
24 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
25 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
26 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
27 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
28 Section 482. . . .”

1 5. Section 4059 of the Code states, in pertinent part:

2 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
3 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
4 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
5 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
6 3640.7. . . ."

7 6. Section 4060 of the Code states, in pertinent:

8 "No person shall possess any controlled substance, except that furnished to a person upon
9 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
10 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
11 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
12 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
13 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
14 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
15 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
16 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
17 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
18 labeled with the name and address of the supplier or producer. . . ."

19 7. Section 4300, subdivision (c), of the Code states, in pertinent part:

20 "The board may refuse a license to any applicant guilty of unprofessional conduct. . . ."

21 8. Section 4301 of the Code states, in pertinent part:

22 "The board shall take action against any holder of a license who is guilty of unprofessional
23 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

24 Unprofessional conduct shall include, but is not limited to, any of the following:

25

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

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

4

5 "(l) The conviction of a crime substantially related to the qualifications, functions, and
6 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
7 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
8 substances or of a violation of the statutes of this state regulating controlled substances or
9 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
10 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
11 The board may inquire into the circumstances surrounding the commission of the crime, in order
12 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
13 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
14 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
15 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
16 of this provision. The board may take action when the time for appeal has elapsed, or the
17 judgment of conviction has been affirmed on appeal or when an order granting probation is made
18 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
19 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
20 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
21 indictment."

22

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

27 "(p) Actions or conduct that would have warranted denial of a license. . . ."

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1 **REGULATORY PROVISION**

2 9. California Code of Regulations, title 16, section 1770, states:

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

9 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

10 10. Marijuana is hallucinogenic Schedule I controlled substances pursuant to Health and
11 Safety Code section 11054, subdivisions (d)(13) and (20), and United States Code, title 21,
12 section 812 and a dangerous drug pursuant to section 4022 of the Code. Possession of a
13 controlled substance is illegal under federal law (21 U.S.C. § 844), and the Pharmacy Law (Bus.
14 & Prof. Code, § 4000 et seq.) prohibits a person from possessing any controlled substance
15 without a valid prescription. (Bus. & Prof. Code, § 4060.)

16 **FIRST CAUSE FOR DENIAL OF APPLICATION**

17 **(Conviction of a Substantially Related Crime)**

18 11. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
19 that Respondent was convicted of a substantially related crime, as follows:

20 a. On or about February 13, 2008, after pleading guilty, Respondent was convicted of
21 one felony count of violating Penal Code section 245, subdivision (a)(1) [assault with deadly
22 weapon, non firearm, or by force to cause great bodily injury], in a criminal proceeding entitled
23 *The People of the State of California v. Thomas Chow Wang* (Super. Ct. Riverside County, 2008,
24 No. RIF122564). The Court sentenced Respondent to 180 days in jail, placed him on 36 months
25 formal probation, ordered him not to have direct or indirect contact with victim W. V., and
26 ordered him to pay restitution. On or about June 24, 2011, the Court dismissed the case pursuant
27 to Penal Code section 1203.4.

28 b. The circumstances surrounding the conviction are that on or about March 18, 2005,

1 Riverside Police Department officers responded to an altercation at Respondent's residence that
2 arose from a dispute over Respondent's sale of marijuana. During the course of the altercation, a
3 male victim was stabbed by Respondent after he (victim) attacked him with a knife. Respondent
4 was subsequently arrested and charged with possession of marijuana for sale as well as attempted
5 homicide. During the course of the arrest, officers seized from Respondent's residence
6 marijuana, approximately \$3,000 in cash, a scale, and pay-owe sheets.

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

8 **(Unlawful Possession of a Controlled Substance for Sale)**

9 12. Respondent's application is subject to denial under sections 480, subdivision (a)(3),
10 and 4301, subdivision (j), in that Respondent violated Business and Professions Code section
11 4060 by possessing a controlled substance. Complainant refers to and by this reference
12 incorporates the allegations set for above in paragraph 11, subdivision b, inclusive, as though set
13 forth fully.

14 **THIRD CAUSE FOR DENIAL OF APPLICATION**

15 **(Acts Warranting Licensee Discipline)**

16 13. Respondent's application is subject to denial under sections 480, subdivision (a)(3),
17 and 4301, subdivisions (o) and / or (p), in conjunction with California Code of Regulations, title
18 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed acts
19 which if done by a licentiate of the business and profession in question, would be grounds for
20 suspension or revocation of license, as follows:

21 a. On or about February 13, 2008, Respondent was convicted of crimes substantially
22 related to the qualifications, functions, or duties of an intern pharmacist which to a substantial
23 degree evidence his present or potential unfitness to perform the functions authorized by his
24 license in a manner consistent with the public health, safety, or welfare, in violation of sections
25 490 and 4301, subdivision (l), and in conjunction with California Code of Regulations, title 16,
26 section 1770. Complainant refers to, and by this reference incorporates, the allegations set forth
27 above in paragraph 11, subparagraphs a, inclusive, as though set forth fully.

28 b. On or about March 18, 2005, Respondent possessed marijuana without a valid

1 prescription in violation of Code sections 4301, subdivision (j), and 4059. Complainant refers to
2 and by this reference incorporates the allegations set for above in paragraph 11, subdivision b,
3 inclusive, as though set forth fully.

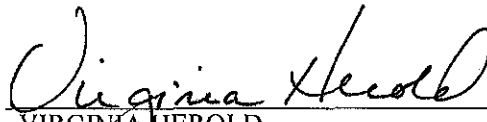
4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board issue a decision:

- 7 1. Denying the application of Thomas Chow Wang for a Intern Pharmacist; and
- 8 2. Taking such other and further action as deemed necessary and proper.

9
10 DATED: _____

9/5/15



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

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