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

11 In the Matter of the Statement of Issues
Against:

Case No. 5915

12 **MEAKARA THAP**

STATEMENT OF ISSUES

13 Respondent.

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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 December 3, 2015, the Board of Pharmacy, Department of Consumer
21 Affairs received an application for a Pharmacy Technician License from Meakara Thap
22 (Respondent). On or about December 1, 2015, Meakara Thap certified under penalty of perjury
23 to the truthfulness of all statements, answers, and representations in the application. The Board
24 denied the application on May 6, 2016.

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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 4. Section 4300 of the Code states, in pertinent part:

6

7 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct.
8 The board may, in its sole discretion, issue a probationary license to any applicant for a license
9 who is guilty of unprofessional conduct and who has met all other requirements for licensure.
10 The board may issue the license subject to any terms or conditions not contrary to public policy.
11 . . ."

12 **STATUTORY AND REGULATORY PROVISIONS**

13 5. Section 480 of the Code states, in pertinent part:

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

16 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
17 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
18 board is permitted to take following the establishment of a conviction may be taken when the
19 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
20 an order granting probation is made suspending the imposition of sentence, irrespective of a
21 subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

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

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

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1 "(d) A board may deny a license regulated by this code on the ground that the applicant
2 knowingly made a false statement of fact that is required to be revealed in the application for the
3 license."

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5 6. Section 4301 states, in pertinent part:

6 "The board shall take action against any holder of a license who is guilty of unprofessional
7 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
8 Unprofessional conduct shall include, but is not limited to, any of the following:

9

10 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
11 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
12 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
13 to the extent that the use impairs the ability of the person to conduct with safety to the public the
14 practice authorized by the license.

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

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19 "(l) The conviction of a crime substantially related to the qualifications, functions, and
20 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
21 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
22 substances or of a violation of the statutes of this state regulating controlled substances or
23 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
24 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
25 The board may inquire into the circumstances surrounding the commission of the crime, in order
26 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
27 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
28 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

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

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11 7. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

18
19 **FIRST CAUSE FOR DENIAL OF APPLICATION**

20 **(Criminal Conviction - Substantially Related Crime)**

21 8. Respondent's application is subject to denial under sections 4301, subdivision (l) and
22 480, subdivision (a)(1), in that on or about September 5, 2008, Respondent was convicted in a
23 criminal proceeding entitled *People v. Meakara Thap*, Case No. M056547, in San Diego County
24 Superior Court. Respondent was convicted by plea of no contest to a violation of Vehicle Code
25 Section 23152(a) (driving with a blood alcohol level in excess of .08%) (Count One) and Penal
26 Code Section 415(1) (fight/challenge in a public place) (Count Two). Respondent's blood
27 alcohol level was recorded as .25%.

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1 9. Respondent was sentenced as follows: five (5) years probation, and ordered to
2 complete 13 days of community service, ordered to pay a fine of \$1,972.00, ordered to complete a
3 first conviction DUI program, ordered to complete a Mother's Against Drunk Driving Program.

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5 **SECOND CAUSE FOR DENIAL OF APPLICATION**

6 **(Criminal Conviction - Substantially Related Crime)**

7 10. Respondent's application is subject to denial under sections 4301, subdivision (1) and
8 480 subdivision (a)(1), in that on or about September 29, 2010, Respondent was convicted in a
9 criminal proceeding entitled *People v. Meakara Thap*, Case No. ST055446A, in San Joaquin
10 County Superior Court. Respondent was convicted by plea of no contest to a violation of Vehicle
11 Code Section 23152 (b)(with enhancement pursuant to Vehicle Code section 23540) (driving
12 with a blood alcohol level in excess of .08%). Respondent's blood alcohol level was recorded at
13 .22%.

14 11. Respondent was sentenced as follows: three (3) years probation, ten (10) days in jail,
15 ordered to pay a fine of \$2,916.00, required to participate in a DUI multiple offender program
16 and ordered to abstain from alcohol and drugs.

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18 **THIRD CAUSE FOR DENIAL OF APPLICATION**

19 **(Criminal Conviction - Substantially Related Crime)**

20 12. Respondent's application is subject to denial under sections 4301, subdivision (1) and
21 480 subdivision (a)(1), in that on or about December 14, 2010, Respondent was convicted in a
22 criminal proceeding entitled *People v. Meakara Thap*, Case No. SMZ76187A, in San Joaquin
23 County Superior Court. Respondent was convicted by plea of no contest to a violation of Penal
24 Code Section 647(f) (disorderly conduct/ public intoxication).

25 13. Respondent was sentenced as follows: three (3) years probation, one (1) day in jail,
26 ordered to pay a fine of \$391.00, required to abstain from alcohol and drugs, and attend
27 counseling.

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FOURTH CAUSE FOR DENIAL OF APPLICATION

(Failure to Disclose Criminal Conviction)

14. Respondent’s application is subject to denial under section 480, subdivision, (d), in that on or about December 1, 2015, when Respondent submitted his application to the Board, he failed to disclose his December 4, 2010 conviction for disorderly conduct/public intoxication.

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 Meakara Thap for a Pharmacy Technician License;
- 2. Taking such other and further action as deemed necessary and proper.

DATED: 11/13/17 *Virginia Herold*

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

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