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

11 In the Matter of the Statement of Issues Against:	Case No. 6104
12 ALEXANDER JAMES KING	STATEMENT OF ISSUES
13 Pharmacy Technician Registration Applicant	
14 Respondent.	

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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 November 14, 2016, the Board received an application for a Pharmacy
23 Technician Registration from Alexander James King (Respondent). On or about November 5,
24 2016, Alexander James King certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the application. The Board denied the application on
26 March 13, 2017.

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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 unless otherwise
4 indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 state, 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 time
12 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an
13 order granting probation is made suspending the imposition of sentence, irrespective of a
14 subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

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

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

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

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1 “(c) Notwithstanding any other provisions of this code, a person shall not be denied a
2 license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4,
3 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been
4 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof
5 of the dismissal.”

6 5. Section 4300 provides in pertinent part, that every license issued by the Board is
7 subject to discipline, including suspension or revocation.

8 6. Section 4300.1 states:

9 “The expiration, cancellation, forfeiture, or suspension of a board-issued license by
10 operation of law or by order or decision of the board or a court of law, the placement of a license
11 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
12 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
13 proceeding against, the licensee or to render a decision suspending or revoking the license.”

14 7. Section 4301 states, in pertinent part:

15 “The board shall take action against any holder of a license who is guilty of unprofessional
16 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
17 not limited to, any of the following:

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19 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
20 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
21 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
22 to the extent that the use impairs the ability of the person to conduct with safety to the public the
23 practice authorized by the license.

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25 “(l) The conviction of a crime substantially related to the qualifications, functions, and
26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

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

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15 “(n) The revocation, suspension, or other discipline by another state of a license to practice
16 pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter
17 that would be grounds for revocation, suspension, or other discipline under this chapter. Any
18 disciplinary action taken by the board pursuant to this section shall be coterminous with action
19 taken by another state, except that the term of any discipline taken by the board may exceed that
20 of another state, consistent with the board’s enforcement guidelines. The evidence of discipline by
21 another state is conclusive proof of unprofessional conduct.

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23 “(p) Actions or conduct that would have warranted denial of a license.”

24 REGULATORY PROVISIONS

25 8. California Code of Regulations, title 16, section 1770, states:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **FIRST CAUSE FOR DENIAL OF APPLICATION**

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

6 9. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
7 that Respondent has been convicted of a crime substantially related to the qualifications, functions
8 or duties of a pharmacy technician, as follows:

9 a. On or about October 9, 2015, Respondent was convicted of one misdemeanor count
10 of violating Vehicle Code section 23152, subdivision (a) [driving under the influence of alcohol
11 or drugs] and one misdemeanor count of violating Vehicle Code section 23152, subdivision (b)
12 [driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal
13 proceeding entitled *The People of the State of California v. Alexander James King* (Super. Ct.
14 Riverside County, 2015, No. RIM1513546). The Court sentenced Respondent to serve 25 days in
15 jail, ordered him to complete a 3-month first offender DUI program, and placed him on 36 months
16 probation, with terms and conditions.

17 b. The circumstances surrounding the conviction are that on or about July 5, 2015,
18 Respondent rear-ended a vehicle waiting at a red signal light with his motorcycle. When officers
19 arrived on the scene, Respondent was lying on his stomach in the street. While speaking to
20 Respondent, he was observed to have bloodshot and watery eyes and an odor of alcohol emitting
21 from his breath and person and he admitted that he "drank a lot" while being checked by
22 paramedics. Respondent was subsequently transported to Riverside Community Hospital for
23 injuries he sustained in the collision at which time he provided a blood sample that revealed a
24 blood alcohol content of 0.19%.

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1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (Acts Warranting Denial of Licensure)

3 10. Respondent's application is subject to denial under section 480, subdivisions (a)(3)A)
4 and (a)(3)(B), in that Respondent committed acts which if done by a registered pharmacy
5 technician would be grounds for suspension or revocation of the license as follows:

6 a. Respondent was convicted of a crime substantially related to the qualifications,
7 functions, or duties of a pharmacy technician which to a substantial degree evidence his present or
8 potential unfitness to perform the functions authorized by the license in a manner consistent with
9 the public health, safety, or welfare, in violation of sections 4301, subdivision (l), in conjunction
10 with California Code of Regulations, title 16, section 1770. Complainant refers to, and by this
11 reference incorporates, the allegations set forth above in paragraph 9, subparagraph (a), as though
12 set forth fully.

13 b. Respondent used alcoholic beverages to an extent or in a manner dangerous or
14 injurious to himself, another person, or the public, in violation of section 4301, subdivision (h).
15 Complainant refers to, and by this reference incorporates, the allegations set forth above in
16 paragraph 9, subparagraph (b), as though set forth fully.

17 c. Respondent was subject to disciplinary action by another health care professional
18 licensing board. On or about March 28, 2016, in the disciplinary action entitled "*In the Matter of*
19 *the Accusation Against: Alexander King*," Case No. 2015-12, the Sierra-Sacramento Valley
20 Emergency Medical Services Agency, Department of Health Services, revoked Respondent's
21 EMT Certification No. E088459 by default decision, in violation of section 4301, subdivision (n),
22 on the grounds of unprofessional conduct.

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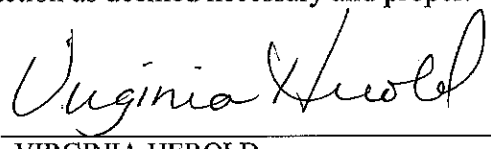
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PRAYER

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 Alexander James King for a Pharmacy Technician Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED: 9/11/17



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

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