

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 MATTHEW A. KING
Deputy Attorney General
4 State Bar No. 265691
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
matthew.king@doj.ca.gov
6 (213) 897-7446
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4691

11 **AVEDIS KOUYOUMDJIAN**
12 2912 Canada Blvd.
13 Glendale, CA 91208

A C C U S A T I O N

(Gov. Code, § 11503.)

14 **Pharmacy Technician Registration No.**
TCH 66161

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

19 1. Complainant Virginia Herold brings this Accusation solely in her official capacity as
20 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On November 17, 2005, the Board issued Pharmacy Technician Registration Number
22 TCH 66161 to Respondent Avedis Kouyoumdjian. The registration was in full force and effect at
23 all times relevant to the charges brought herein and will expire on June 30, 2015 unless it is
24 renewed.

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1 JURISDICTION

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

5 4. Code section 4300 provides that every license issued by the Board may be revoked or
6 suspended and that proceedings to discipline a license are to be conducted according to the
7 Administrative Procedure Act (Gov. Code, §§ 11370, *et seq.*).

8 5. Code section 4300.1 provides that the “expiration, cancellation, forfeiture, or
9 suspension of a board-issued license by operation of law or by order or decision of the board or a
10 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
11 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
12 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
13 suspending or revoking the license.”

14 STATUTES

15 6. Section 4301 of the Code states, in relevant part:

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

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

23 ...

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

26 ...

27 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
28 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.

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

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1 **DRUG STATUTES**

2 7. Section 4022 of the Code states:

3 'Dangerous drug' or 'dangerous device' means any drug or device unsafe for
4 self-use in humans or animals, and includes the following:

5 (a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing
6 without prescription,' 'Rx only,' or words of similar import.

7 (b) Any device that bears the statement: 'Caution: federal law restricts this
8 device to sale by or on the order of a _____,' 'Rx only,' or words of similar import, the
9 blank to be filled in with the designation of the practitioner licensed to use or order
10 use of the device.

11 (c) Any other drug or device that by federal or state law can be lawfully
12 dispensed only on prescription or furnished pursuant to Section 4006.

13 8. Section 4059 of the Code states in relevant part:

14 (a) A person may not furnish any dangerous drug, except upon the prescription
15 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
16 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
17 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
18 naturopathic doctor pursuant to Section 3640.7...

19 **REGULATIONS**

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

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

28 **COST RECOVERY**

10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case.

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1 **DRUG CLASSIFICATIONS**

2 11. Kaletra is a brand name for the drug combination lopinavir and ritonavir. Lopinavir
3 and ritonavir are protease inhibitors that prevent replication of the human immunodeficiency
4 virus in infected patients.

5 12. Revatio is a brand name for sildenafil. Sildenafil is indicated for Pulmonary Arterial
6 Hypertension.

7 13. Reyataz is a brand name for atazanavir. Atazanavir is a protease inhibitor indicated
8 for HIV-positive patients.

9 14. Sustiva is a brand name for efavirenz. Efavirenz is a non-nucleoside reverse
10 transcriptase inhibitor that prevents HIV replication in infected patients.

11 15. Truvada is a brand name for emtricitabine and tenofovir disoproxil fumarate. Truvada
12 is used to treat HIV and may be used as an HIV pre-exposure prophylaxis for adults at high risk
13 of acquiring HIV.

14 16. Xeloda is a brand name for capecitabine. Capecitabine is indicated for colorectal and
15 breast cancers.

16 17. The drugs described in paragraphs 11–16 are classified as dangerous drugs and are
17 available only by prescription. (Bus. & Prof. Code, § 4022.)

18 **STATEMENT OF FACTS**

19 18. CVS Pharmacy in Glendale employed Respondent as a Pharmacy Technician from
20 2003 to at least April 29, 2008.

21 19. At 10:00 p.m. on Friday, April 25, 2008, Respondent walked through CVS Pharmacy
22 and selected bottles of Kaletra, Revatio, Reyataz, Sustiva, Truvada and Xeloda. The drugs were
23 worth \$23,426. Respondent placed the bottles in a basket before transferring them to his pockets.
24 He then left the pharmacy without paying for the drugs.

25 20. On Tuesday, April 29, 2008, a CVS Regional Loss Prevention Manager confronted
26 Respondent about the previous Friday's theft. He told Respondent that the drugs he'd taken were
27 worth over \$23,000. Respondent said, "Now I feel really bad because I have been selling them for
28 nothing. The guy I have been selling them to has taken advantage of me." Respondent admitted

1 that he had been stealing medications from the pharmacy and selling them at a rate of about two
2 times per month for at least a year.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Dishonesty, Fraud, Deceit and Corruption)**

5 21. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
6 in conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
7 conduct because he committed an act involving dishonesty, fraud, deceit and corruption.

8 Complainant realleges paragraphs 11–20.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Violate Drug Statutes)**

11 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
12 in conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
13 conduct because he violated statutes regulating dangerous drugs. In particular, Respondent
14 violated section 4059, which prohibits the furnishing of dangerous drugs except upon a valid
15 prescription. Complainant realleges paragraphs 11–20.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Violate Pharmacy Law)**

18 23. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
19 in conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
20 conduct because he violated provisions of the Pharmacy Law (Bus. & Prof. Code, §§ 2700, *et*
21 *seq.*). Complainant realleges paragraphs 11–22.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Conduct that Would Have Warranted License Denial)**

24 24. Respondent is subject to disciplinary action under Code section 4301, subdivision (p),
25 in conjunction with California Code of Regulations, title 16, section 1770, for unprofessional
26 conduct because he committed acts that would have warranted denial of a license. Complainant
27 realleges paragraphs 11–23.

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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. Revoking or suspending Pharmacy Technician Registration Number TCH 66161, issued to Avedis Kouyoumdjian;
2. Ordering Avedis Kouyoumdjian to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

1/31/15

Virginia Herold

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

LA2013509857