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

12 In the Matter of the Accusation Against:

Case No. 5642

13 **ZEMFIRA HOVSEPYAN**
3411 E. Chevy Chase Dr.
Glendale, CA 91206

ACCUSATION

14 **Pharmacy Technician Registration No.**
15 **TCH 141980**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about December 5, 2014, the Board of Pharmacy ("Board") issued Pharmacy
23 Technician Registration No. TCH 141980 to Zemfira Hovsepyan ("Respondent"). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on June 30, 2018, unless 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. Section 4011 of the Code provides that "[t]he board shall administer and enforce this
6 chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et seq.)] and the Uniform
7 Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and
8 Safety Code)."

9 5. Section 4300, subdivision (a), of the Code states, in pertinent part, that "[e]very
10 license issued may be suspended or revoked."

11 6. Section 4300.1 of the Code states:

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

18 **STATUTORY AND REGULATORY PROVISIONS**

19 7. Section 4021 of the Code states, "[c]ontrolled substance' means any substance listed
20 in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

21 8. Section 4022 of the Code states:

22 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
23 self-use in humans or animals, and includes the following:

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

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

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

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

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

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

....

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

....

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

....

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

10. Section 4060 of the Code states:

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

1 Nothing in this section authorizes a certified nurse-midwife, a nurse
2 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
stock of dangerous drugs and devices.

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

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

8 **COST RECOVERY**

9 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation or violations of
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
13 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
14 may be included in a stipulated settlement.

15 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

16 13. Marijuana (cannabis), hashish and tetrahydrocannabinols ("THC"-concentrated
17 marijuana) are hallucinogenic Schedule I controlled substances under State and federal law.
18 (Health and Safety Code §11054, subds. (d)(13) and (20); 21 U.S.C. § 812.) Marijuana is also a
19 dangerous drug pursuant to Code section 4022.

20 **FIRST CAUSE FOR DISCIPLINE**

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

22 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (I),
23 in conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
24 convicted of a crime substantially related to qualifications, functions, or duties of a registered
25 pharmacy technician which to a substantial degree evidence his present or potential unfitness to
26 perform the functions authorized by his registration in a manner consistent with the public health,
27 safety, or welfare, as follow:

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1 a. On or about May 27, 2015, Respondent was charged with one felony count for
2 violating Health and Safety Code section 11359 [possession of marijuana for sale], one felony
3 count for violating Health and Safety Code section 11358 [cultivating marijuana], one felony
4 count for violating Health and Safety Code section 11379.6, subdivision (a) [manufacturing a
5 controlled substance other than PCP, to wit concentrated cannabis], and two misdemeanor counts
6 for violating Penal Code section 273a, subdivision (b) [cruelty to child by endangering health], in
7 the criminal proceeding entitled *The People of the State of California v. Zempfira Hovsepyan*
8 (Super. Ct. L.A. County, 2015, No. BA436798-02).

9 b. On or about March 3, 2016, Respondent was convicted of one misdemeanor count of
10 violating Penal Code section 273a, subdivision (b) [cruelty to child by endangering health]. The
11 court ordered Respondent complete a 52-week parenting classes.

12 c. The other felony drug charges are still pending as of this date.

13 c. The circumstances surrounding the conviction are that Los Angeles Police
14 Department Narcotics Enforcement Detail officers investigated a marijuana distribution and
15 cultivation organization in December of 2014. On or about May 13, 2015, after months of
16 investigation and surveillance, the officers arrested Respondent and a co-defendant Aramis
17 Poghosyan, at their residence in Glendale, CA. They shared the residence with their two minor
18 children, ages 10 and 12 years old. During a search, the police found evidence of manufacturing
19 concentrated cannabis (marijuana) including butane honey oil, a concentrated substance derived
20 from cannabis. The butane honey oil is often extracted through a dangerous process using
21 butane. It produces a volatile, flammable solvent that is easily ignited and highly explosive. The
22 police also found large amounts of narcotics throughout the residence, including the dining room,
23 living room and garage, that were easily accessible to any person including the two minor
24 children. At the residence, the police seized marijuana, and marijuana products valued at over
25 \$77,000. The police also found \$22,555 in US currency. On the same day, the police searched a
26 marijuana dispensary named Organic Spot in Los Angeles, owned and operated by Aramis
27 Poghosyan. At this location, the police seized marijuana, and marijuana products valued at over
28 \$400,000. The police also found \$684 in US currency at the business.

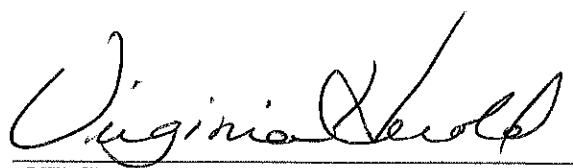
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration No. TCH 141980, issued to Zemfira Hovsepyan;
2. Ordering Zemfira Hovsepyan to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 3/14/17



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

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