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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
12 Against:

Case No. 4418

13 **TERIN THOMPSON KANDARIAN**

STATEMENT OF ISSUES

14 **Pharmacy Technician Applicant**

15 Respondent.

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 2. On or about January 13, 2012, the Board of Pharmacy, Department of Consumer
22 Affairs received an application for a Pharmacy Technician from Terin Thompson Kandarian
23 (Respondent). On or about January 9, 2012, Terin Thompson Kandarian certified under penalty
24 of perjury to the truthfulness of all statements, answers, and representations in the application.
25 The Board denied the application on July 20, 2012.
26
27
28

1 JURISDICTION

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

5 4. Section 118 of the Code states, in pertinent part:

6 “(a) The withdrawal of an application for a license after it has been filed with a board in
7 the department shall not, unless the board has consented in writing to such withdrawal, deprive
8 the board of its authority to institute or continue a proceeding against the applicant for the denial
9 of the license upon any ground provided by law or to enter an order denying the license upon any
10 such ground.”

11 STATUTORY AND REGULATORY PROVISIONS

12 5. Section 480 of the Code states:

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

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

21 “(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
22 benefit himself or herself or another, or substantially injure another.

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
27 which application is made.”
28

1 6. Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is
2 defined to include, but not be limited to, any of the following:

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

8 ...

9 “(l) The conviction of a crime substantially related to the qualifications, functions, and
10 duties of a licensee under this chapter.”

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

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 manner
17 consistent with the public health, safety, or welfare.”

18 FIRST CAUSE FOR DENIAL OF APPLICATION

19 (Unprofessional Conduct – Dangerous or Injurious Use of Alcohol)
20 (Bus. & Prof. Code §§ 480, subd. (a)(3), 4301, subd. (h))

21 8. Respondent’s application is subject to denial under Code section 480, subdivision
22 (a)(3), by reference to Code section 4301, subdivision (h), in that Respondent engaged in
23 unprofessional conduct by using alcohol in a dangerous and injurious manner. The circumstances
24 are as follows:

25 9. On or about December 29, 2007, at approximately 1:24 a.m., a Burlingame Police
26 Officer (Officer 1), observed Respondent commit several traffic violations, including swerving in
27 and out of lanes and nearly colliding with a parked vehicle. Officer 1 called Officer 2 for
28 assistance, and Officer 1 initiated a traffic stop of Respondent’s vehicle.

1 10. Officer 2 arrived at the scene and approached the driver's side of Respondent's
2 vehicle. Officer 2 could smell the odor of alcohol emitting from Respondent's vehicle and also
3 noticed that Respondent had bloodshot, watery eyes and drooping eyelids. Officer 2 asked
4 Respondent to exit her vehicle and complete a series of field sobriety tests (FST's). Respondent
5 stumbled as she exited her vehicle and Officer 2 had to assist her into a standing position.
6 Respondent performed poorly on the FST's. Officer 2 administered the Preliminary Alcohol
7 Screening (PAS) device to Respondent, which showed that she had a blood alcohol level of
8 0.212% at 1:43 a.m., and 0.202% at 1:45 a.m. Due to the officers' observations of Respondent's
9 driving, her symptoms of intoxication, and her failure to satisfactorily complete the FST's,
10 Officer 2 arrested Respondent for violating Vehicle Code section 23152, subdivision (a) (driving
11 under the influence). Respondent admitted that she had been drinking, but denied feeling the
12 effects of the drinks. Once she was transported to the Burlingame Police Department,
13 Respondent elected to take the breath test, but once she began vomiting she agreed to take the
14 blood test instead.

15 SECOND CAUSE FOR DENIAL OF APPLICATION

16 (Conviction of Substantially Related Crime)

17 (Bus. & Prof. Code §§ 480, subd. (a)(1), 4301, subd. (l); Cal. Code Regs., tit. 16, § 1770)

18 11. Complainant realleges the allegations contained in paragraphs 8 through 10 above,
19 and incorporates them by reference as if fully set forth.

20 12. Respondent's application is subject to denial under Code section 480, subdivision
21 (a)(1), by reference to Code section 4301, subdivision (l), and as defined by California Code of
22 Regulations, title 16, section 1770, in that she was convicted of a crime substantially related to the
23 qualifications, functions, and duties of a licensee. The circumstances are that on or about March
24 7, 2008, in a criminal matter entitled *The People of the State of California v. Kandarian, Terin
25 Thompson*, in the San Mateo County Superior Court, Case No. NM373008A, Respondent was
26 convicted by plea of nolo contendere to violating Vehicle Code section 23152, subdivision (b)
27 (driving under the influence with a blood alcohol level of .08% or higher), a misdemeanor, with a
28 special enhancement of Vehicle Code section 23578 (driving with a blood alcohol level of .15%

1 or higher). Respondent was placed on court probation for 3 years and ordered to complete a 9
2 month First Offender Program, not drive without a valid license and insurance, not drive with any
3 alcohol in her blood, submit to an alcohol test whenever directed by a probation officer or peace
4 officer, and pay various fees and fines.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
7 Statement of Issues, and that following the hearing, the Board of Pharmacy issue a decision:

- 8 1. Denying the application of Terin Thompson Kandarian for a Pharmacy Technician;
9 and
10 2. Taking such other and further action as deemed necessary and proper.

11 DATED: 3/26/13



12 VIRGINIA HEROLD
13 Executive Officer
14 Board of Pharmacy
15 Department of Consumer Affairs
16 State of California
17 *Complainant*

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