

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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. 5507

13 **LILIT O. ISAYAN**

STATEMENT OF ISSUES

14 Pharmacy Technician Registration Applicant

15 Respondent.

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 November 19, 2014, the Board of Pharmacy ("Board"), Department of
21 Consumer Affairs received an application for a Pharmacy Technician Registration from Lilit O.
22 Isayan ("Respondent"). On or about October 30, 2014, Lilit O. Isayan certified under penalty of
23 perjury to the truthfulness of all statements, answers, and representations in the application. The
24 Board denied the application on May 29, 2015.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board, under the authority of the
27 following laws. All section references are to the Business and Professions Code ("Code") unless
28 otherwise indicated.

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

2

3 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct.

4 The board may, in its sole discretion, issue a probationary license to any applicant for a license
5 who is guilty of unprofessional conduct and who has met all other requirements for licensure.

6 The board may issue the license subject to any terms or conditions not contrary to public policy.

7 .."

8 **STATUTORY AND REGULATORY PROVISIONS**

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

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

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

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

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

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

25 “(b) Notwithstanding any other provision of this code, a person shall not be denied a license
26 solely on the basis that he or she has been convicted of a felony if he or she has obtained a certificate
27 of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the
28 Penal Code or that he or she has been convicted of a misdemeanor if he or she has met all applicable

1 requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
2 person when considering the denial of a license under subdivision (a) of Section 482.

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

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

9 "The board shall take action against any holder of a license who is guilty of unprofessional
10 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

11 Unprofessional conduct shall include, but is not limited to, any of the following:

12

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

16

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

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
5 indictment.”

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

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

13 **FIRST CAUSE FOR DENIAL OF APPLICATION**

14 **(Conviction of Substantially Related Crimes)**

15 8. Respondent's application is subject to denial under Code section 480, subdivision
16 (a)(1), in that Respondent was convicted of substantially related crimes, as follows:

17 a. On or about June 15, 2010, after pleading nolo contendere, Respondent was convicted
18 of two felony counts of violating Penal Code section 459 [second degree burglary], one felony
19 count of violating Penal Code section 530.5, subdivision (a) [identity theft], and one felony count
20 of violating Penal Code section 496, subdivision (a) [receive stolen property], in the criminal
21 proceeding entitled *The People of the State of California v. Lilit Isayan* (Super. Ct. L.A. County,
22 2010, No. GA079886). The Court sentenced Respondent to 94 days in jail, placed her on three
23 years formal probation with terms and conditions, and ordered her to complete 45 days of
24 community labor and eight hours of an anti-theft counseling. On or about February 14, 2013, the
25 Court dismissed the convictions pursuant to Penal Code section 1203.4.

26 b. The circumstances surrounding the convictions are that between January 19, 2010
27 and March 23, 2010, Respondent and an accomplice went to a gym multiple times and targeted
28 victims who used lockers. On multiple occasions, Respondent opened the lockers belonging to

1 the gym patrons and stole their car keys, wallets, driver's licenses, credit cards, cellular phone,
2 and cash. When Respondent found car keys in the locker, she went out to the gyms' parking lots
3 where the vehicles were located and stole credit cards, cash, sunglasses, driver's licenses, and
4 other clothing items.

5 **SECOND CAUSE FOR DENIAL OF APPLICATION**

6 **(Acts Involving Dishonesty, Fraud, or Deceit)**

7 9. Respondent's application is subject to denial under Code section 480, subdivision
8 (a)(2), in that between January 19, 2010 and March 23, 2010, Respondent committed acts
9 involving dishonesty, fraud, or deceit with the intent to substantially benefit herself or another, or
10 substantially injure another. Complainant refers to, and by this reference incorporates, the
11 allegations set forth in paragraph 8, as though set forth fully.

12 **THIRD CAUSE FOR DENIAL OF APPLICATION**

13 **(Acts Warranting Discipline of Licensure)**

14 10. Respondent's application is subject to denial under Code section 480, subdivision
15 (a)(3), on the grounds of unprofessional conduct, in that Respondent committed acts which if
16 done by a registered pharmacy technician, would be grounds for suspension or revocation of the
17 license, as follows:

18 a. Code section 4301, subdivision (l), in conjunction with California Code of
19 Regulations, title 16, section 1770, in that June 15, 2010, Respondent was convicted of crimes
20 substantially related to the qualifications, functions, or duties of a pharmacy technician which to a
21 substantial degree evidence her present or potential unfitness to perform the functions authorized
22 by license in a manner consistent with the public health, safety, or welfare. Complainant refers to
23 and by this reference incorporates the allegations set forth above in paragraph 8, as though set
24 forth fully.

25 b. Code section 4301, subdivision (f), in that between January 19, 2010 and March 23,
26 2010, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or
27 corruption. Complainant refers to and by this reference incorporates the allegations set forth
28 above in paragraph 8, as though set forth fully.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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. Denying the application of Lilit O. Isayan for a Pharmacy Technician Registration;
- and
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/22/16



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

LA2015501277
51889411_3.doc