

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
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**

12 In the Matter of the Statement of Issues
Against:

Case No. 6087

13 **AYVEN DAVOUDI**

STATEMENT OF ISSUES

14 Intern Pharmacist License 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 (Board).

22 2. On or about October 5, 2016, the Board received an application for an Intern
23 Pharmacist License from Ayven Davoudi (Respondent). On or about August 16, 2016,
24 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on January 13, 2017.

26 ///

27 ///

28 ///

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

7 5. Section 4300.1 states:

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

13 **STATUTORY PROVISIONS**

14 6. Section 480 states:

15 "(a) A board may deny a license regulated by this code on the grounds that the applicant
16 has one of the following:

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

23 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
24 benefit himself or herself or another, or substantially injure another.

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

27 ///

28 ///

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

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

11 “(c) Notwithstanding any other provisions of this code, a person shall not be denied a
12 license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4,
13 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been
14 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof
15 of the dismissal.”

16 7. Section 490 provides, in pertinent part, that a board may suspend or revoke a license
17 on the ground that the licensee has been convicted of a crime substantially related to the
18 qualifications, functions, or duties of the business or profession for which the license was issued.

19 8. Section 4301 states, in pertinent part:

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

23

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

27

28 ///

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

6 ...

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

24

25 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable
27 federal and state laws and regulations governing pharmacy, including regulations established by
28 the board or by any other state or federal regulatory agency.

1 **SECOND CAUSE FOR DENIAL OF APPLICATION**

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

3 11. Respondent's application is subject to denial under section 480, subdivision (a)(2), in
4 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
5 substantially benefit himself, or substantially injure another. Complainant refers to, and by this
6 reference incorporates, the allegations set forth above in paragraph 10, as though set forth fully.

7 **THIRD CAUSE FOR DENIAL OF APPLICATION**

8 **(Acts Warranting Denial of Licensure)**

9 12. Respondent's application is subject to denial under sections 4301, subdivision (p)
10 and/or (o), and 480, subdivisions (a)(3)A) and (a)(3)(B), in that Respondent committed acts which
11 if done by a licentiate of the business and profession in question, would be grounds for suspension
12 or revocation of his license as follows:

13 a. Respondent was convicted of crimes substantially related to the qualifications,
14 functions, or duties of a pharmacy technician which to a substantial degree evidence his present or
15 potential unfitness to perform the functions authorized by his license in a manner consistent with
16 the public health, safety, or welfare, in violation of sections 4301, subdivision (l), and 490, in
17 conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to,
18 and by this reference incorporates, the allegations set forth above in paragraph 10, as though set
19 forth fully.

20 b. Respondent committed acts involving dishonesty, fraud, or deceit, in violation of
21 section 4301, subdivision (f). Complainant refers to, and by this reference incorporates, the
22 allegations set forth above in paragraph 10, as though set forth fully.

23 c. Respondent used alcoholic beverages to an extent or in a manner dangerous or
24 injurious to himself, any person, or the public, in violation of section 4301, subdivision (h).
25 Complainant refers to, and by this reference incorporates, the allegations set forth above in
26 paragraph 10, as though set forth fully.

27 ///

28 ///

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

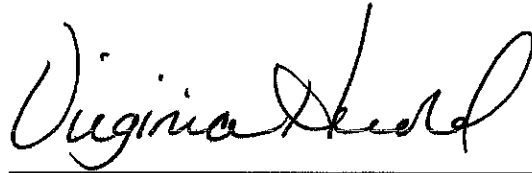
PRAYER

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

1. Denying the application of Ayven Davoudi for an Intern Pharmacist License; and
2. Taking such other and further action as deemed necessary and proper.

DATED: _____

7/17/17



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

LA2017604633
52549374.doc