

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

In the Matter of the Statement of Issues Against:

Case No. 4418

**TERIN THOMPSON KANDARIAN**

Pharmacy Technician Applicant

Respondent.

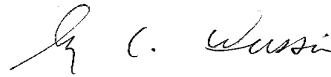
**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 21, 2013.

It is so ORDERED on October 22, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

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STAN C. WEISSER  
Board President

BEFORE THE  
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TERIN THOMPSON KANDARIAN,

Respondent.

Case No. 4418

OAH No. 2013050372

**PROPOSED DECISION**

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on July 24, 2013, in Oakland, California.

Complainant Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, was represented by Susana A. Gonzales, Deputy Attorney General.

Respondent Terin Thompson Kandarian was present and represented herself.

This matter was submitted for decision on July 24, 2013.

**FACTUAL FINDINGS**

1. Complainant Virginia Herold made this statement of issues in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (board).
2. On January 13, 2012, respondent submitted a pharmacy technician application to the board. The board denied her application on July 20, 2012, and respondent appealed.
3. On March 7, 2008, respondent was convicted in the Superior Court of the State of California, County of San Mateo, upon her plea of nolo contendere, of violating Vehicle Code section 23152, subdivision (b) (driving under the influence of alcohol with a blood alcohol content of .08 percent or higher), a misdemeanor. Imposition of sentence was suspended, and respondent was placed on court probation for a period of three years, on terms and conditions which included 96 days in jail, to be served through the Sheriff's work program, attending a nine-month first offender program, and fines and fees.

The facts and circumstances of the offense are that on December 29, 2007, respondent drove her vehicle after consuming alcohol. Respondent's blood alcohol content was tested at .212 percent and .202 percent.

On July 23, 2013, respondent filed a petition for dismissal of the conviction pursuant to Penal Code section 1203.4. The petition was pending at the time of the hearing.

4. Respondent expressed great remorse for her conviction. Respondent stated that she was "young and immature" at the time of the offense and has "grown and learned" since then. Respondent complied with all terms and conditions of probation, including successful completion of the court-ordered first offender program. The offense occurred shortly after respondent's brother had been diagnosed with epilepsy. She reacted poorly to the bad news by going out drinking. She understands that drinking was not the right way to handle a stressful situation. Facing the consequences of her conviction was "hard." Respondent has attended counseling with her family to help cope with her brother's illness. She has learned to be more open with her family about her feelings. Respondent does not drink anymore. She does not want to put people at risk and she does not want to go backwards after working hard to move forward after her DUI.

5. Respondent has been employed as a pharmacy associate at CVS Pharmacy (formerly Long's Drugs) for almost 14 years, since she was a teenager. She prides herself in providing excellent service to the customers. She has developed relationships with her customers over the years. She understands the board's concerns about her conviction, and stated that she would never do anything wrong at the workplace. Respondent wishes to continue working at CVS, which is now requiring all pharmacy employees to be licensed.

6. Respondent is 29 years old. She plans on attending nursing school in the near future.

7. Anne Hunt, a supervising investigator for the board, testified that respondent's conviction was of concern because it shows a disregard for the law and a lack of good judgment. Hunt stated that the high blood alcohol content involved in the offense raises concerns about respondent's potential for addiction. Hunt noted that pharmacy technicians have access to controlled substances.

8. Robert Siskin testified at the hearing. Siskin has been a licensed pharmacist for 37 years. He has worked with respondent for five years. He has found respondent to be professional, courteous, and diligent. She is a dedicated employee and provides excellent service to the pharmacy customers. Siskin stated that respondent has an "exemplary work ethic" and is more knowledgeable than many of the licensed pharmacy technicians working at the pharmacy.

9. In a letter dated June 10, 2013, Phillip Hopper, a CVS pharmacy customer, writes that respondent "stepped up time after time to wade into the middle of arbitrating

disagreements, policies, confusion, and getting things done and what I needed when I needed it.”

10. In an e-mail message dated May 9, 2013, addressed to CVS, customer Mary Mastrobattista writes that respondent is “pleasant, competent, and knowledgeable.” Respondent noticed that a prescription was incorrect and called the doctor to correct it before Mastrobattista arrived at the pharmacy to pick it up.

## LEGAL CONCLUSIONS

1. Business and Professions Code sections 480, subdivision (a)(3), and 4301, subdivision (h), provide that the board may deny an application for a pharmacy technician license if the applicant has engaged in unprofessional conduct by using alcohol in a dangerous and injurious manner. Cause exists to deny respondent’s application in light of the matters set forth in Finding 3.

2. Business and Professions Code sections 480, subdivision (a)(1) and 4301, subdivision (l), provide that the board may deny an application for a pharmacy technician license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of a pharmacy technician. A crime is substantially related to the qualifications, functions or duties of a licensee “if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by her license or registration in a manner consistent with the public health, safety or welfare.” (Cal. Code Regs., tit. 16, § 1770.) Respondent’s conviction for driving under the influence of alcohol with a blood alcohol content in excess of .08 percent is substantially related to the qualifications, functions or duties of a pharmacy technician. Therefore, cause exists to deny respondent’s application in light of the matters set forth in Finding 3.

3. The board has set forth criteria for evaluating the rehabilitation of an applicant for a licensure. (Cal. Code Regs., tit. 16, § 1769.) These criteria include the nature and severity of the offense, the time that has elapsed, whether the applicant has complied with the terms of probations, and evidence of rehabilitation. Respondent has presented sufficient evidence of rehabilitation to warrant granting a probationary pharmacy technician registration. The underlying conduct occurred more than five years ago. Respondent complied with probation, which has been completed. The incident occurred when respondent was fairly young and was coping with the news that her brother suffered from epilepsy. Respondent has learned from her mistakes. She is better able to handle stressful situations and she refrains from using alcohol. Respondent has worked in a pharmacy for almost 14 years, where she is a valued and trusted employee. The evidence established that respondent is genuinely committed to leading a law-abiding and productive life and is extremely unlikely to engage in further criminal activity or unprofessional conduct in the future. Accordingly, assuming that respondent has otherwise met all other requirements for licensure, it would not be against the public interest to issue respondent a pharmacy technician registration license on a probationary basis.

## ORDER

The application of respondent Terin Thompson Kandarian for registration as a pharmacy technician is denied. A probationary registration, however, shall be issued to respondent for a period of (3) three years upon the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

a. an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws.

b. a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment.

c. a conviction of any crime.

d. discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear at two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate shall be considered a violation of probation.

5. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 4418 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 4418 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his or her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 4418 in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number 4418 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation..

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician

license is a requirement or criterion for employment, whether the respondent is considered an employee, independent contractor or volunteer.

6. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

7. Status of License

Respondent shall, at all times while on probation, maintain an active, current pharmacy technician license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her pharmacy technician license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his or her pharmacy technician license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

9. Notification of a Change in Name, Residence Address, Mailing Address or Employment

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for

leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the board in writing within ten (10) days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

10. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a specific number of hours per calendar month to be determined by the board or its designee. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician in California for the specific minimum number of hours per calendar month determined by the board, respondent must notify the board in writing within ten (10) days of cessation of work and must further notify the board in writing within ten (10) days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

“Cessation of work” means calendar month during which respondent is not working as a pharmacy technician, as defined in Business and Professions Code section 4115 for at least the minimum hours determined by the board. “Resumption of work” means any calendar month during which respondent is working as a pharmacy technician as defined by Business and Professions Code section 4115 for at least the minimum number of hours determined by the board.

11. Violation of Probation

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.




If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

12. Completion of Probation

Upon written notice by the board indicating successful completion of probation, respondent's pharmacy technician license will be fully restored.

DATED: 8/14/13

  
KAREN REICHMANN  
Administrative Law Judge  
Office of Administrative Hearings

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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  
Against:

Case No. 4418

12 **TERIN THOMPSON KANDARIAN**

**STATEMENT OF ISSUES**

13 **Pharmacy Technician Applicant**

14 Respondent.

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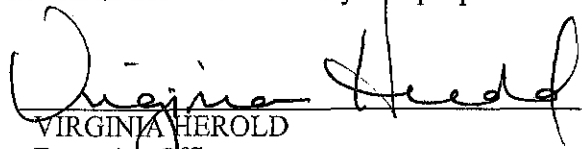
1 or higher). Respondent was placed on court probation for 3 years and ordered to complete a 9  
2 month First Offender Program, not drive without a valid license and insurance, not drive with any  
3 alcohol in her blood, submit to an alcohol test whenever directed by a probation officer or peace  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



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

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