

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

In the Matter of the Statement of Issues
Against:

ARUTYUN BAGDATYAN,
a.k.a. ARUTYAN BAGDATYAN

Respondent.

Case No. 5006

OAH No. 2014050444

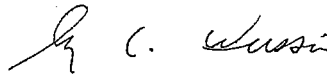
DECISION

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 March 20, 2015.

IT IS SO ORDERED this 18th day of February, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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PROPOSED DECISION

Administrative Law Judge Angela Villegas, State of California, Office of Administrative Hearings, heard this matter on January 15, 2015, in Los Angeles, California.

Christina Thomas, Deputy Attorney General, represented Complainant.

Respondent was present, and was represented by attorney Jilbert Tahmazian.

Evidence was received, and the matter was submitted for decision, on January 15, 2015.

AMENDMENT OF THE STATEMENT OF ISSUES

At the hearing, Complainant amended paragraph 2 of the Statement of Issues by replacing the dates of April 15, 2010 and April 5, 2010 with June 11, 2013.

REDACTION OF PERSONAL IDENTIFYING INFORMATION

Exhibits 2 through 4 contained unredacted personal identifying numbers. These references were redacted from the Office of Administrative Hearings' file.

FACTUAL FINDINGS

1. Complainant Virginia Herold, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed the Statement of Issues in her official capacity.

2. On June 11, 2013, Respondent applied (Application) to the Board for Pharmacist Examination and Licensure. The Board denied the Application on October 16, 2013.¹ Respondent requested a hearing, and this proceeding followed.

3. Respondent had previously applied to the Board for registration as a pharmacy technician and for licensure as a pharmacy intern.² The Board denied both of Respondent's prior applications, and Respondent appealed the denials. Both appeals affirmed the denials.³ Respondent was licensed in Arkansas as a pharmacy intern (license no. PI21023) from February 12, 2010 to November 30, 2013, when the license expired and was not renewed. Respondent performed 1,500 hours of pharmacy intern work in Arkansas.

4. On June 12, 2007, in the Superior Court of California, County of Los Angeles, case number LA055059, Respondent was convicted on his nolo contendere plea of violating Penal Code section 484e, subdivision (b) (grand theft of access cards), a felony.⁴ On September 11, 2007, the court sentenced Respondent to two years in state prison, but suspended the sentence in favor of placing Respondent on three years' formal probation, on condition that he obey all laws, perform 1,440 hours of CalTrans community service (less credit for 104 hours already performed), pay fines and fees totaling \$8,220, and pay \$19,501.31 in victim restitution. Respondent had already paid the victim restitution in full prior to sentencing. He paid the remaining fines and fees in full, performed all of the community service ordered, and otherwise complied with the terms of his probation. On October 26, 2009, the court terminated Respondent's probation early. On March 18, 2010, the court reduced the charge to a misdemeanor pursuant to Penal Code section 17, subdivision (b), and dismissed the conviction pursuant to Penal Code section 1203.4. This is Respondent's only criminal conviction.

¹ The Statement of Issues (para. 2) alleges the date on which Respondent's application was denied as May 28, 2010, but the evidence (Exhibit 1) showed the actual date was October 16, 2013.

² The dates of Respondent's prior applications were January 27, 2009 and April 15, 2010, respectively.

³ At least one of these affirmances followed an administrative hearing. The evidence did not include the Board's decision(s) issued in the prior matters.

⁴ The Statement of Issues (para. 9) alleges the date of Respondent's plea as September 11, 2007, but court records (Exhibit 5) show the date of Respondent's plea was June 12, 2007. September 11, 2007 was the date of sentencing.

5. The events leading to Respondent's conviction occurred in summer 2006, when Respondent was a 21-year-old college student working at KB Toys. Another person offered to pay Respondent to "skim" information from customer credit cards. After some initial hesitation, Respondent agreed, and the other person gave him a device that would collect the credit card information. Over the course of one to two months, Respondent used the device to skim 17 customer credit cards. The other person then retrieved the device and paid Respondent \$50 per card skimmed. The credit card numbers were later used to make fraudulent purchases totaling approximately \$20,000.

6. Respondent is now 30 years old. He understands his decision to participate in skimming the credit cards was "stupid" and "immature," and he deeply regrets it. Indeed, he confessed his conduct immediately upon being confronted by police and loss prevention personnel. He understands his conduct was harmful to the customers whose information he stole, because it caused fraudulent charges to be made on their credit cards, and to his employer, because it undermined the public's trust in the company. He voluntarily completed a theft-prevention class, in which he learned about triggers to stealing and how to interrupt them. He continues to be ashamed of and remorseful for his conduct, emotions that were evident at the hearing. At this point, Respondent understands that "being loyal and trustworthy is the best attribute you can have[.]" especially when another person is "putting [their] care and health in [your] hands[.]" and that "everything else is temporary." (Respondent's testimony.)

7. Respondent had never engaged in criminal conduct prior to his offense, and he has not done so since. He had been a good student, earning honors and awards in elementary, middle, and high school, and attending Los Angeles Valley College and the University of Southern California (USC). USC awarded him a Bachelor of Arts degree in Biological Sciences, with a minor in Gerontology, in 2007. Respondent decided he wanted to become a pharmacist while in college, and after graduating, he attended pharmacy school at Harding University in Arkansas. Respondent's supervising pharmacist during his Arkansas internship praised him as having "a wonderful work ethic, [being] very organized, and [being] able to work independently with the ability to follow through to ensure that the job gets done." (Exhibit B; Robinson letter.)

LEGAL CONCLUSIONS

1. Cause exists to deny Respondent's Application based on his criminal conviction. (Factual Findings 4 and 5.) (Bus. & Prof. Code, § 480, subd. (a)(1).) Respondent's crime of stealing credit card information is substantially related to the qualifications, functions, and duties of a licensed pharmacist because "to a substantial degree it evidences present or potential unfitness . . . to perform the functions authorized by [the] license . . . in a manner consistent with the public health, safety, or welfare." (Cal. Code Regs., tit. 16 (Regulation), § 1770.) Respondent's crime involved not only theft, but also a breach of the trust placed in him by his employer and by members of the public who gave him access to their credit cards while making purchases at the toy store. Pharmacists are

entrusted with valuable and dangerous substances as well as customer medical and financial information. Consequently, a crime involving theft, especially when accompanied by a breach of trust, shows the potential unfitness of the perpetrator to serve as a pharmacist.

2. Cause exists to deny Respondent's Application based on his dishonest conduct, carried out with the intent to benefit himself. (Factual Findings 4 and 5.) (Bus. & Prof. Code, § 480, subd. (a)(2).)

3. Cause also exists to deny Respondent's Application because, if he were licensed, his conviction and dishonest conduct would be grounds for suspension or revocation of the license. (Factual Findings 4 and 5.) (Bus. & Prof. Code, §§ 480, subd. (a)(3); 490, subds. (a) and (c); 4301, subds. (l) and (p); Regulation § 1770.)

4. Given the seriousness of Respondent's crime and the conduct leading to it (Regulation §§ 1760; 1769, subd. (b); Disciplinary Guidelines (Guidelines) at p. 3⁵), his showing of rehabilitation was insufficient to warrant unrestricted licensure at this time. (Factual Findings 4 and 5.) (See Bus. & Prof. Code, § 4313 ("In determining whether to grant an application for licensure . . . the board shall give consideration to evidence of rehabilitation. However, public protection shall take priority over rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public protection shall take precedence.") Nevertheless, Respondent's showing was sufficient to warrant licensure on a probationary basis. (Factual Findings 6 and 7.)

5. Respondent displayed an understanding of the seriousness of his crime, the harm it caused, and the negative connotation it created for his character. (Factual Finding 6.) (Regulation § 1769, subd. (b)(1); Guidelines at p. 3.) He unequivocally accepted responsibility for his actions. (Regulation § 1769, subd. (b)(5); Guidelines at p. 3.) (See *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933, 940; *Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058 (acknowledging and accepting responsibility for wrongdoing are critical to rehabilitation).) Respondent's acceptance of responsibility was evidenced not merely by his words, but also by his exemplary compliance with his probation terms (Factual Finding 4), the dismissal of his conviction under Penal Code section 1203.4 (*id.*), and his unblemished record before and since the crime, including his pharmacy internship (Factual Findings 6 and 7). (Regulation § 1769, subds. (b)(2), (4), and (5); Guidelines at p. 3.)

6. Respondent's crime occurred eight and a half years ago, and his conviction was entered seven and a half years ago (Factual Findings 4 and 5) (Regulation § 1769, subd. (b)(3); Guidelines at p. 3), and during that period, Respondent has grown from a college student in his early twenties to a well-educated young man of 30. (Factual Findings 5 and 6.) Although the evidence did not include the Board's reasons for denying Respondent's prior applications (Factual Finding 3), it is noteworthy that, at the time of Respondent's prior applications (2009 and 2010), his crime and conviction were considerably more recent. (*Id.*;

⁵ The Guidelines address themselves to license discipline, but apply by analogy in connection with an application for licensure.

Factual Findings 4 and 5.) Respondent has shown determination to achieve his goal of becoming a pharmacist and a willingness to prove himself worthy of the privilege. (Factual Findings 6 and 7.) (Regulation § 1769, subd. (b)(5); Guidelines at p. 3.) Given Respondent's reflection on his experiences and his efforts to learn from them (Factual Findings 6 and 7), it appears unlikely that he will again engage in dishonest or criminal conduct.

7. The Guidelines divide grounds for discipline into four categories, depending on the seriousness of the underlying conduct. A violation of Penal Code section 484e, subdivision (b), is not listed in any of the four categories. Nevertheless, Respondent's crime fits most closely into Category III, because it involved fraudulent acts, which Respondent committed intentionally. (Guidelines at p. 15.) For a Category III violation, the Guidelines provide for minimum discipline of stayed revocation, with 90 days' actual suspension, and three to five years' license probation. (*Id.*) In this case, a probationary period of five years is appropriate, considering the gravity of Respondent's crime. The five-year probationary term will give the Board a significant period during which to monitor and assess the sincerity of Respondent's reformation and his ability to perform the duties of a pharmacist in a trustworthy manner, while also affording protection to the public against the small possibility that Respondent will re-offend or otherwise behave in a manner inconsistent with his license.

8. The Board's standard probationary terms will be imposed (except for the standard term requiring payment of the Board's investigation and prosecution costs, which were not sought in this Statement of Issues case). (See Regulation § 1760 (allowing "[d]eviation from the[] guidelines . . . where the board . . . determines that the facts of the particular case warrant").) No actual suspension will be imposed, because the evidence did not establish any non-punitive reason for suspension. (See *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856 ("The purpose of an administrative proceeding concerning the revocation or suspension of a license is not to punish the individual; the purpose is to protect the public from dishonest, immoral, disreputable or incompetent practitioners.")) Respondent was not shown to require professional remediation or time to complete any other rehabilitative measure, and his suspension was not shown to be necessary to protect the public.

ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to Respondent Arutyun Bagdatyan, a.k.a. Arutyun Bagdatyan, and immediately revoked; however, the order of revocation is stayed and Respondent is placed on probation for five 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 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 pharmacist 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 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 for two 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 probation. Failure to cooperate shall be considered a violation of probation.

5. *Continuing Education.* Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

6. *Notice to Employers.* During the period of probation, Respondent shall notify all present and prospective employers of the Decision in case number 5006 and the terms, conditions and restrictions imposed on Respondent by the Decision, as follows. Within 30 days of the effective date of this Decision, and within 15 days of Respondent undertaking any new employment, Respondent shall cause his 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 5006, and terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board. If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board

of the terms and conditions of the Decision in case number 5006 in advance of Respondent commencing work at each licensed entity. A record of this notification must be provided to the Board upon request. Furthermore, within 30 days of the effective date of this Decision, and within 15 days of Respondent undertaking any new employment by or through a pharmacy employment service, Respondent shall cause his 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 5006 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that his 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 acknowledgments 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, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether Respondent is an employee, independent contractor or volunteer.

7. *No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant.* During the period of probation, Respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the Board nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. *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.

9. *Status of License.* Respondent shall, at all times while on probation, maintain an active, current 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 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.

10. *License Surrender While on Probation/Suspension.* Following the effective date of this Decision, should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his 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 Respondent's license history with the Board.

Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three 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, including any outstanding costs.

11. *Notification of a Change in Name, Residence Address, Mailing Address or Employment.* Respondent shall notify the Board in writing within 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 10 days of a change in name, residence address, 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.

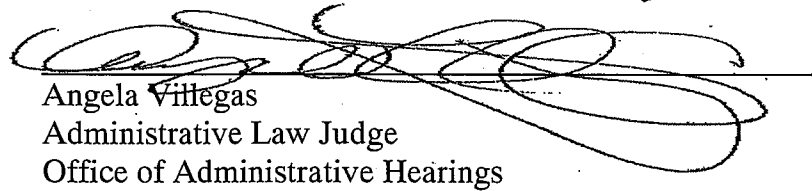
12. *Tolling of Probation.* Except during periods of suspension, Respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation: i.e., the period 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 practicing as a pharmacist for a minimum of 40 hours per calendar month in California, Respondent must notify the Board in writing within 10 days of the cessation of practice, and must further notify the Board in writing within 10 days of the resumption of practice. 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 36 months. "Cessation of practice" means any calendar month during which Respondent is not practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which Respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

13. *Violation of Probation.* If 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.

14. *Completion of Probation.* Upon written notice by the Board or its designee indicating successful completion of probation, Respondent's license will be fully restored.

Dated: January 23, 2015



Angela Villegas
Administrative Law Judge
Office of Administrative Hearings

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7 *Attorneys for Complainant*

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

11

12 In the Matter of the Statement of Issues
Against:

Case No. 5006

13

14 **ARUTYUN BAGDATYAN**
a.k.a., ARUTYAN BAGDATYAN
13518 Bassett Street
15 Van Nuys, CA 91405

STATEMENT OF ISSUES

16

Respondent.

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18 Complainant alleges:

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PARTIES

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

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2. On or about April 15, 2010, the Board of Pharmacy (Board) received an application
23 for a Pharmacist Examination and Licensure from Arutyun Bagdatyan, also known as Arutyun
24 Bagdatyan (Respondent). On or about April 5, 2010, Respondent certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application.

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The Board denied the application on May 28, 2010.

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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
4 otherwise indicated.

5 **STATUTORY PROVISIONS**

6 4. Section 480 states, in pertinent part:

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

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

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

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

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

22 5. Section 490 states, in pertinent part:

23 "(a) In addition to any other action that a board is permitted to take against a licensee, a
24 board may suspend or revoke a license on the ground that the licensee has been convicted of a
25 crime, if the crime is substantially related to the qualifications, functions, or duties of the
26 business or profession for which the license was issued.

27 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
28 discipline a licensee for conviction of a crime that is independent of the authority granted under

1 subdivision (a) only if the crime is substantially related to the qualifications, functions, or
2 duties of the business or profession for which the licensee's license was issued.

3 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or
4 a conviction following a plea of nolo contendere. Any action that a board is permitted to take
5 following the establishment of a conviction may be taken when the time for appeal has elapsed,
6 or the judgment of conviction has been affirmed on appeal, or when an order granting probation
7 is made suspending the imposition of sentence, irrespective of a subsequent order under the
8 provisions of Section 1203.4 of the Penal Code."

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

11 7. Section 4301 states, in pertinent part:

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

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17 "(1) 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
24 order to fix the degree of discipline or, in the case of a conviction not involving controlled
25 substances or dangerous drugs, to determine if the conviction is of an offense substantially
26 related to the qualifications, functions, and duties of a licensee under this chapter. A plea or
27 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
28 conviction within the meaning of this provision. The board may take action when the time for

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

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7 "(p) Actions or conduct that would have warranted denial of a license."

8 REGULATORY PROVISIONS

9 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

16 FIRST CAUSE FOR DENIAL OF APPLICATION

17 (Conviction of a Crime)

18 9. Respondent's application is subject to denial under section 480, subdivision (a)(1),
19 in that Respondent was convicted of a crime. On or about September 11, 2007, after pleading
20 *nolo contendere*, Respondent was convicted of one felony count of violating Penal Code
21 section 484E, subdivision (b) [grand theft of access cards] in the criminal proceeding entitled
22 *The People of the State of California v. Arutyun Bagdatyan* (Super. Ct. Los Angeles County,
23 2007, No. LA055059). The Court sentenced Respondent to two years in state prison and
24 placed him on three years formal probation, with terms and conditions. The circumstances
25 surrounding the conviction are that on or about July 22, 2006, while employed at KB Toys, in
26 Sherman Oaks, CA, Respondent skimmed 17 credit cards of customers and provided the credit
27 card numbers to another. He was paid \$50.00 for each credit card number. The credit cards
28 were fraudulently used to purchase approximately \$20,000.00 worth of merchandise.

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SECOND CAUSE FOR DENIAL OF APPLICATION

(Dishonesty, Fraud, or Deceit)

10. Respondent's application is subject to denial under section 480, subdivision (a)(2), in that on or about July 22, 2006, Respondent committed dishonest acts, fraud, or deceit with the intent to substantially benefit himself, or substantially injure another. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, as though set forth fully.

THIRD CAUSE FOR DENIAL OF APPLICATION

(Acts Warranting Denial of a License)

11. Respondent's application is subject to denial under sections 4301, subdivision (p), and 480, subdivision (a)(3) (A) and (B), in that Respondent committed acts which if done by a licentiate would be grounds for suspension or revocation of his license. Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a pharmacist intern which to a substantial degree evidence his present or potential unfitness to perform the functions authorized by his license in a manner consistent with the public health, safety, or welfare, in violation of sections 4301, subdivision (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 9, as though set forth fully.

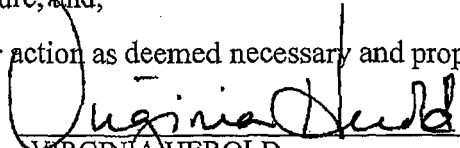
PRAYER

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 Arutyun Bagdatyan, also known as Arutyun Bagdatyan for a Pharmacist Examination and Licensure; and,

2. Taking such other and further action as deemed necessary and proper.

DATED: 4/8/14



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