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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 5635

13 **ANUSH ANA AVETISYAN**
14 7448 Farmdale Avenue
15 North Hollywood, CA 91605

DEFAULT DECISION AND ORDER

16 Pharmacy Technician Registration
17 No. TCH 106798

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about December 21, 2015, Complainant Virginia K. Herold, in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,
22 filed Accusation No. 5635 against Anush Ana Avetisyan (Respondent) before the Board of
23 Pharmacy. (Accusation attached as Exhibit A.)

24 2. On or about October 28, 2010, the Board of Pharmacy (Board) issued Pharmacy
25 Technician Registration No. TCH 106798 to Respondent. The Pharmacy Technician Registration
26 was in full force and effect at all times relevant to the charges brought in Accusation No. 5635
27 and expired on December 31, 2015, and has not been renewed. This lapse in licensure, however,
28 pursuant to Business and Professions Code section 4300.1 does not deprive the Board of its
authority to institute or continue this disciplinary proceeding.

1 3. On or about January 11, 2016, Respondent was served by Certified and First Class
2 Mail copies of the Accusation No. 5635, Statement to Respondent, Notice of Defense, Request
3 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
4 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
5 section 4100, is required to be reported and maintained with the Board. Respondent's address of
6 record which was and is: 7448 Farndale Avenue, North Hollywood, CA 91605.

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
9 124.

10 5. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
17 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5635.

18 7. California Government Code section 11520 states, in pertinent part:

19 (a) If the respondent either fails to file a notice of defense or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
22 respondent.

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 ~~Respondent is in default. The Board will take action without further hearing and, based on the~~
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 5635, finds that
28 the charges and allegations in Accusation No. 5635, are separately and severally, found to be true
and correct by clear and convincing evidence.

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9. Taking official notice of its own internal records, pursuant to Business and Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation and Enforcement are \$745.00 as of March 3, 2016.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Anush Ana Avetisyan has subjected her Pharmacy Technician Registration No. TCH 106798 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician Registration based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

a. Business and Professions Code sections 4300, and 4301, subdivision (l), in conjunction with, California Code of Regulations, title 16, section 1770, in that the Respondent was convicted of crimes substantially related to the qualifications, functions, and duties of a pharmacy technician, as follows:

i. On or about March 17, 2015, Respondent was convicted of one misdemeanor count of violating Penal Code section 422, subdivision (a) [criminal threats with intent to terrorize] in the criminal proceeding entitled *The People of the State of California v. Arush Avetisyan* (Super. Ct. L.A. County, 2015, No. 5PY00911). The Court sentenced Respondent to serve 30 days in jail, ordered her to stay away from S.W. and G.W. and placed her on 36 months probation, with terms and conditions.

ii. On or about March 17, 2015, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while driver's license is suspended or revoked] in the criminal proceeding entitled *The People of the State of California v. Anush Avetisyan* (Super. Ct. L.A. County, 2015, No. 5PY01086). The Court sentenced Respondent to serve 10 days in jail, ordered her to attend 26 narcotics anonymous meetings at the rate of 2 times per week, and placed her on 36 months probation, with terms and conditions.

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1 b. Business and Professions Code section 4301, subdivision (f), in that on or about
2 February 10, 2015, Respondent committed acts involving moral turpitude, dishonesty, fraud,
3 deceit, or corruption with the intent to substantially benefit herself, or substantially injure another.

4 c. Business and Professions Code section 4301, subdivision (j) for violating section
5 4060, on the grounds of unprofessional conduct, in that on or about January 30, 2015, Respondent
6 was found to be in illegal possession of controlled substances and/or dangerous drugs.

7 ORDER

8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 106798, heretofore
9 issued to Respondent Anush Ana Avetisyan, is revoked.

10 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
11 written motion requesting that the Decision be vacated and stating the grounds relied on within
12 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
13 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

14 This Decision shall become effective at 5:00 p.m. on May 6, 2016.

15 It is so ORDERED on April 6, 2016.

16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA

19 
20

21 By

22 Amy Gutierrez, Pharm.D.
23 Board President

24 52005766.DOC
DOJ Matter ID:LA2015502254

25 Attachment:
26 Exhibit A: Accusation
27
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Exhibit A

Accusation

(ANUSH ANA AVETISYAN)

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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 5635

12 **ANUSH ANA AVETISYAN**
7448 Farndale Avenue
13 North Hollywood, CA 91605

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH 106798

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about October 28, 2010, the Board issued Pharmacy Technician Registration
22 No. TCH 106798 to Anush Ana Avetisyan (Respondent). The Pharmacy Technician Registration
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 December 31, 2015, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following laws.
27 All section references are to the Business and Professions Code unless otherwise indicated.

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

3 5. Section 4300.1 states:

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

9 STATUTORY PROVISIONS

10 6. Section 4060 states, in pertinent part:

11 "No person shall possess any controlled substance, except that furnished to a person upon
12 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
13 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
14 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
15 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
16 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
17 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply
18 to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
19 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
20 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
21 labeled with the name and address of the supplier or producer."

22 7. Section 4301 states, in pertinent part:

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

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

4

5 "(j) The violation of any of the statutes of this state, or any other state, or of the United
6 States regulating controlled substances and dangerous drugs.

7

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

25 REGULATORY PROVISIONS

26 8. California Code of Regulations, title 16, section 1770, states:

27 "For the purpose of denial, suspension, or revocation of a personal or facility license
28 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a

1 crime or act shall be considered substantially related to the qualifications, functions or duties of a
2 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
3 licensee or registrant to perform the functions authorized by his license or registration in a manner
4 consistent with the public health, safety, or welfare."

5 **COST RECOVERY**

6 9. Section 125.3 provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licensee found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
10 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
11 included in a stipulated settlement.

12 10. **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

13 a. "Acetaminophen," is a Schedule III controlled substance as defined in Health and
14 Safety Code section 11056, subdivision (e)(4) and is categorized as a dangerous drugs pursuant to
15 section 4022.

16 b. "Alprazolam," is a Schedule IV controlled substance pursuant to Health and Safety
17 Code section 11057, subdivision (d)(1) and is categorized as a dangerous drug pursuant to section
18 4022.

19 c. "Carisoprodol," is a Schedule IV controlled substance pursuant to Code of Federal
20 Regulations, title 21, section 1308.14(c)(6), and is categorized as a dangerous drug according to
21 section 4022.

22 d. "Diphenhydramine," and in a 50 mg dosage is categorized as a dangerous drug
23 pursuant to section 4022.

24 e. "Heroin," is a Schedule I controlled substance as designated by Health and Safety
25 Code section 11054, subdivision (c)(11) and is categorized as a dangerous drug pursuant to
26 section 4022.

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1 f. "Lorazepam," a benzodiazepine derivative, is a Schedule IV controlled substance as
2 designated by Health and Safety Code section 11057, subdivision (d)(16), and is categorized as a
3 dangerous drug pursuant to section 4022.

4 g. "Marijuana, hashish oil and tetrahydrocannabinols (concentrated marijuana)," are a
5 Schedule I controlled substances under Health and Safety Code section 11054, subdivisions
6 (d)(13) and (20) and Code of Federal Regulations, title 21, section 12 and are categorized as a
7 dangerous drug pursuant to section 4022.

8 h. "Methamphetamine," is a Schedule II controlled substance as designated by Health
9 and Safety Code section 11055, subdivision (d)(2) and is categorized as a dangerous drug
10 pursuant to section 4022.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Convictions of Substantially Related Crimes)**

13 11. Respondent is subject to disciplinary action under sections 4300, and 4301,
14 subdivision (l), in conjunction with, California Code of Regulations, title 16, section 1770, in that
15 the Respondent was convicted of crimes substantially related to the qualifications, functions, and
16 duties of a pharmacy technician, as follows:

17 a. On or about March 17, 2015, Respondent was convicted of one misdemeanor count of
18 violating Penal Code section 422, subdivision (a) [criminal threats with intent to terrorize] in the
19 criminal proceeding entitled *The People of the State of California v. Anush Avetisyan* (Super. Ct.
20 L.A. County, 2015, No. 5PY00911). The Court sentenced Respondent to serve 30 days in jail,
21 ordered her to stay away from S.W. and G.W. and placed her on 36 months probation, with terms
22 and conditions.

23 b. The circumstances surrounding the conviction are that on or about February 10, 2015,
24 Los Angeles Police officers responded to a call of a family dispute at Respondent's residence.
25 Respondent was involved in an argument with her sister over the cable bill. During the argument,
26 Respondent forced her way into the victim's home and began throwing items around and kicking
27 the wall. While arguing, Respondent stated, "I'm going to murder you! I'm going to slit your
28 throat!" The victim was fearful that her sister would come back. Officers were able to locate

1 Respondent in the rear house and placed her under arrest for making credible threats to the
2 victim's life.

3 c. On or about March 17, 2015, after pleading guilty, Respondent was convicted of one
4 misdemeanor count of violating Vehicle Code section 14601.1, subdivision (a) [driving while
5 driver's license is suspended or revoked] in the criminal proceeding entitled *The People of the*
6 *State of California v. Anush Avetisyan* (Super. Ct. L.A. County, 2015, No. 5PY01086). The
7 Court sentenced Respondent to serve 10 days in jail, ordered her to attend 26 narcotics
8 anonymous meetings at the rate of 2 times per week, and placed her on 36 months probation, with
9 terms and conditions.

10 d. The circumstances surrounding the conviction are that on or about January 30, 2015,
11 Los Angeles Police officers conducted an enforcement stop and contacted Respondent. A records
12 check revealed that Respondent's license was suspended. During a search of Respondent's
13 vehicle, the officers recovered Respondent's purse. Inside, officers observed in plain view two
14 orange prescription bottles with various pills, a clear glass jar with a black plastic top containing
15 various pills, a small red Starbucks' envelope with a clear plastic baggie containing a white crystal
16 substance that tested positive for methamphetamine, a brown tar substance in a silver foil wrap
17 resembling heroin, a clear plastic jar containing a brown like tar that tested positive for hash oil,
18 and a small blue plastic container containing a green leafy substance that tested positive for
19 marijuana. Officers also found a small black spiral notebook binder containing ledgers with
20 different locations of Starbucks with dollar amounts written on the side and a bundle of Starbucks
21 gift cards in Respondent's purse. Officers also found a large black spiral notebook containing
22 ledgers with additional Starbucks location with dollar amounts written on the side. During the
23 booking procedure, Respondent stated that a friend introduced her to another friend who would
24 provide Starbucks gift cards for her to purchase merchandise. In return whatever was left over on
25 the card they would split the amount in cash. The pills recovered from Respondent's purse were
26 later identified as Carisprodol, Aprazolam, Lorazepam, Acetaminophen, Diphenhydramine,
27 Docusate Sodium, and L Aspirin-Low. At the time of the arrest, Respondent only had an active
28 prescription for Aprazolam.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

3 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
4 on or about February 10, 2015, Respondent committed acts involving moral turpitude, dishonesty,
5 fraud, deceit, or corruption with the intent to substantially benefit herself, or substantially injure
6 another. Complainant refers to, and by reference incorporates, the allegations set forth above in
7 paragraph 11, subparagraph (b), as though set forth fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Illegal Possession of a Controlled Substance and/or Dangerous Drugs)**

10 13. Respondent is subject to disciplinary action under section 4301, subdivision (j) for
11 violating section 4060, on the grounds of unprofessional conduct, in that on or about January 30,
12 2015, Respondent was found to be in illegal possession of controlled substances and/or dangerous
13 drugs. Complainant refers to, and by reference incorporates, the allegations set forth above in
14 paragraph 11, subparagraph (d), as though set forth fully.

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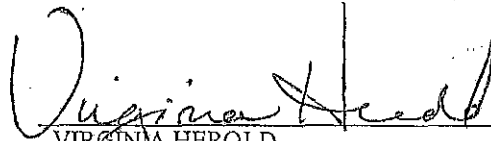
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 106798, issued to Anush Ana Avetisyan;
2. Ordering Anush Ana Avetisyan to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

12/21/15



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

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