

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 SHAWN P. COOK
Deputy Attorney General
4 State Bar No. 117851
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-9954
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3637

11 **KEVIN TER-GRIGORYAN AKA KEVIN**
12 **TERGRIGORYAN**
1795 Harding Ave.
13 Altadena, CA 91001
14 **Pharmacy Technician License No. TCH**
84200

A C C U S A T I O N

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about June 30, 2008, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 84200 to Kevin Ter-Grigoryan aka Kevin Tergrigoryan (Respondent). The
23 Pharmacy Technician License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on July 31, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

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

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

5. Section 4300 of the Code states:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

"(1) Medical or psychiatric evaluation.

"(2) Continuing medical or psychiatric treatment.

"(3) Restriction of type or circumstances of practice.

"(4) Continuing participation in a board-approved rehabilitation program.

1 "(5) Abstention from the use of alcohol or drugs.

2 "(6) Random fluid testing for alcohol or drugs.

3 "(7) Compliance with laws and regulations governing the practice of pharmacy.

4 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
5 certificate of licensure for any violation of the terms and conditions of probation. Upon
6 satisfactory completion of probation, the board shall convert the probationary certificate to a
7 regular certificate, free of conditions.

8 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
9 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
10 shall have all the powers granted therein. The action shall be final, except that the propriety of
11 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
12 Civil Procedure."

13 6. Section 4301 of the Code states:

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

17 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
18 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
19 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
20 to the extent that the use impairs the ability of the person to conduct with safety to the public the
21 practice authorized by the license.

22 * * *

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

25 "(k) The conviction of more than one misdemeanor or any felony involving the use,
26 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
27 combination of those substances.

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

18 * * *

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

20 7. Section 4022 of the Code states in pertinent part:

21 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
22 humans or animals, and includes the following:

23 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
24 prescription," "Rx only," or words of similar import.

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26 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
27 prescription or furnished pursuant to Section 4006."

28 8. Section 4051 of the Code states:

1 "(a) Except as otherwise provided in this chapter, it is unlawful for any person to
2 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
3 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
4 is a pharmacist under this chapter.

5 9. Section 4059, subd. (a) of the Code states, in pertinent part, that a person may not
6 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
7 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not
8 furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist,
9 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

10 10. Section 4060 of the Code provides in pertinent part: "No person shall possess any
11 controlled substance, except that furnished to a person upon the prescription of a physician,
12 dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified
13 nurse-midwife, . . . a nurse practitioner. . . , or a physician assistant. . ."

14 11. Section 4324 of the Code states:

15 "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,
16 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
17 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the
18 state prison, or by imprisonment in the county jail for not more than one year.

19 "(b) Every person who has in his or her possession any drugs secured by a forged
20 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
21 county jail for not more than one year."

22 12. Health and Safety Code section 11170, states: "No person shall prescribe, administer,
23 or furnish a controlled substance for himself."

24 13. Health and Safety Code section 11173, subd. (a) provides that no person shall obtain
25 or attempt to obtain controlled substances, or procure or attempt to procure the administration of
26 or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or
27 (2) by the concealment of a material fact.

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1 14. Section 125.3 of the Code states, in pertinent part, that the Board may request the
2 administrative law judge to direct a licentiate found to have committed a violation or violations of
3 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
4 enforcement of the case.

5 15. Section 118, subdivision (b), of the Code provides that the
6 suspension/expiration/surrender/cancellation of a license shall not deprive the
7 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
8 within which the license may be renewed, restored, reissued or reinstated.

9 16. Section 480 states, in pertinent part:

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

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

19 * * *

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

22 "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
24 profession for which application is made."

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

1 18. Section 493 of the Code states:

2 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
3 the department pursuant to law to deny an application for a license or to suspend or revoke a
4 license or otherwise take disciplinary action against a person who holds a license, upon the
5 ground that the applicant or the licensee has been convicted of a crime substantially related to the
6 qualifications, functions, and duties of the licensee in question, the record of conviction of the
7 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
8 and the board may inquire into the circumstances surrounding the commission of the crime in
9 order to fix the degree of discipline or to determine if the conviction is substantially related to the
10 qualifications, functions, and duties of the licensee in question.

11 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
12 'registration.'"

13 CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

14 A. "Vicodin" is a Schedule III controlled substance as defined in Health and Safety Code
15 section 11056, subdivision (b)(4), and is categorized as a dangerous drug according to Business
16 and Professions Code section 4022.

17 B. "Alprazolam", generic for Xanax, is an anti-anxiety benzodiazepine and is a Schedule
18 IV controlled substance as designated by Health and Safety Code section 11057(d)(1) and is
19 categorized as a dangerous drug pursuant to section 4022 of the Code.

20 C. "Cocaine" is a "narcotic drug" as categorized by Health and Safety Code sec. 11019,
21 subd. (e) and is a Schedule II controlled substance as designated by Health and Safety Code sec.
22 11055, subd. (b)(6).

23 D. "Seroquel" is an antipsychotic drug used to treat schizophrenia and anti-anxiety and
24 is categorized as a dangerous drug according to Business and Professions Code section 4022
25 since it requires a prescription under federal law.

26 E. "Sildenafil Citrate" generic for "Viagra" is a drug used to treat erectile dysfunction
27 and pulmonary arterial hypertension and is categorized as a dangerous drug according to
28 Business and Professions Code section 4022 since it requires a prescription under federal law.

1 FIRST CAUSE FOR DISCIPLINE

2 (Use of Dangerous Drugs or Alcohol)

3 19. Respondent is subject to disciplinary action under sections 4300, 4301, subdivisions
4 (h) and 480, subd. (a)(3) in conjunction with California Code of Regulations sec. subd. (j) in
5 conjunction with Health and Safety Code section 11170 for administering controlled substances
6 to himself, or the use of alcohol or dangerous drugs to an extent or in a manner that was injurious
7 to himself or others. The circumstances are as follows:

8 20. On or about September 7, 2008 at 1240 a.m., Respondent was arrested by the
9 Pasadena Police Department for violation of Vehicle Code Section 23152, subd. (a) [driving
10 while under the influence] after officers observed him parked and sitting in the drivers seat of a
11 black, BMW 328i, with the engine running and a female passenger seated next to him. Officers
12 formed the opinion based on their observations and field sobriety exam that Respondent was
13 under the influence of alcohol. Respondent was arrested and administered a breathalyzer exam at
14 the police department jail with test results of .12 and .13%.

15 21. On or about December 14, 2008, Respondent was arrested by the Beverly Hills Police
16 Department for violation of Health and Safety Code section 11350 subd. (a) [possession of
17 narcotic controlled substance] and Health and Safety Code section 11375 subd. (b)(2) [possession
18 of controlled substance without a prescription], after officers received a tip from an unidentified
19 informant that a male was "snorting cocaine" in a Mercedes outside the Cafe Roma. Officers
20 investigated and observed Respondent exit a Mercedes with heavily tinted windows that
21 prevented them from observing inside. Respondent voluntarily submitted to a search of his
22 person which revealed a bundle containing a fine, white, powdery substance.

23 22. Respondent admitted that the powder was cocaine and that it belonged to him. A
24 subsequent search revealed that Respondent was in possession of four controlled substances:
25 Xanax, Vicodin, Seroquel, and Viagra. Respondent was unable to produce a prescription for any
26 of the controlled substances and claimed he took Xanax for an "anxiety disorder" and that he had
27 no plans to take the other drugs and carried them because various people had given them to him.

28

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

3 1. Revoking or suspending Pharmacy Technician License Number TCH 84200, issued
4 to Kevin Ter-Grigoryan aka Kevin Tergrigoryan Kevin Ter-Grigoryan.

5 2. Ordering Kevin Ter-Grigoryan to pay the Board of Pharmacy the reasonable costs of
6 the investigation and enforcement of this case, pursuant to Business and Professions Code section
7 125.3;

8 3. Taking such other and further action as deemed necessary and proper.

9 DATED: 5/28/10



10 VIRGINIA HEROLD
11 Executive Officer
12 Board of Pharmacy
13 Department of Consumer Affairs
14 State of California
15 *Complainant*

14 LA2010501680
15 accusation.rtf