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

11 In the Matter of the Statement of Issues
Against:

12 **MARINE MANANYAN**

13
14 Intern Pharmacist Registration Applicant,
15 Respondent.

Case No. 5134

STATEMENT OF ISSUES

[Gov. Code, § 11504.]

16
17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold brings this Statement of Issues solely in her official capacity as the
20 Executive Officer of the Board of Pharmacy, an agency within the Department of Consumer
21 Affairs.

22 2. On September 17, 2013, the Board received an application for an Intern Pharmacist
23 Registration from Marine Mananyan. On August 8, 2013, Respondent certified under penalty of
24 perjury to the truthfulness of all statements, answers and representations in the application. The
25 Board denied the application on December 18, 2013.

26 3. Respondent filed a timely notice of appeal on February 11, 2014.

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1 JURISDICTION

2 4. This Statement of Issues is brought before the Board under the authority of the
3 following laws. All section references are to the Business and Professions Code unless otherwise
4 indicated.

5 5. Section 4300.1 provides the Board with continuing jurisdiction over cancelled,
6 expired, lapsed and surrendered licenses.

7 STATUTORY PROVISIONS

8 6. Section 480 states:

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

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

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

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

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

25 (b) Notwithstanding any other provision of this code, no person shall be denied a
26 license solely on the basis that he or she has been convicted of a felony if he or she has
27 obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section
28 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been convicted of a
misdemeanor if he or she has met all applicable requirements of the criteria of
rehabilitation developed by the board to evaluate the rehabilitation of a person when
considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the
applicant knowingly made a false statement of fact required to be revealed in the
application for the license.

7. Section 4300, subdivision (c), states, in pertinent part, that "[t]he board may refuse a
license to any applicant guilty of unprofessional conduct..."

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1 8. Section 4301 states, in pertinent part:

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

6 ...
7 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
8 deceit, or corruption, whether the act is committed in the course of relations as a
9 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

10 (g) Knowingly making or signing any certificate or other document that falsely
11 represents the existence or nonexistence of a state of facts.

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

18 **REGULATORY PROVISIONS**

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

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

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1 **FIRST CAUSE FOR DENIAL**

2 **(Conviction of a Substantially Related Crime)**

3 10. Respondent's application is subject to denial under Code section 480, subdivision
4 (a)(1), and sections 4300, subdivision (c), and 4301, subdivision (l), in conjunction with
5 California Code of Regulations, title 16, section 1770, in that Respondent was convicted of a
6 crime substantially related to the qualifications, functions or duties of an intern pharmacist, as
7 follows:

8 a. On February 4, 2010, Respondent pleaded *nolo contendere* to and was convicted of
9 one misdemeanor count of theft of an access card (Pen. Code, § 484, subd. (e)). The court
10 sentenced her to one day in jail, placed her on summary probation for 36 months and ordered her
11 to perform 25 days of Cal Trans and pay fines and restitution totaling \$195. On May 22, 2013,
12 the court dismissed the matter pursuant to Penal Code section 1203.4. (*People v. Marine*
13 *Mananyan* (Super. Ct. L.A. County, 2013, No. 9PY07898).)

14 b. The conviction stems from conduct occurring on October 18, 2009. Respondent used
15 a stolen credit card to make four purchases at Bloomingdales totaling \$1,330.65. Each time, she
16 signed an electronic signature pad purporting to be an authorized user of the card. Respondent
17 told police that she did not have permission to use the credit card and acknowledged that "what
18 she [did] was wrong."

19 **SECOND CAUSE FOR DENIAL**

20 **(Knowing Misstatement of Fact on License Application)**

21 11. Respondent's application is subject to denial under Code section 480, subdivision (c),
22 in that Respondent knowingly made a false statement of fact required to be revealed in the
23 application for licensure. Respondent submitted a written statement in connection with her
24 application that purported to explain the circumstances of the conviction described in paragraph
25 10. In the written statement, Respondent claimed that she had permission to use the credit card
26 but that her friend, the owner of the card, had "set [her] up." Respondent's account belies the
27 seriousness of the underlying circumstances and constitutes a false statement of fact that was
28 required to be revealed in the application for licensure. Complainant realleges paragraph 10.

1 **THIRD CAUSE FOR DENIAL**

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

3 12. Respondent's application is subject to denial under Code section 480, (a)(2), and
4 sections 4300, subdivision (c), and 4301, subdivision (f), in that Respondent committed acts
5 involving dishonesty, fraud or deceit with the intent to substantially benefit herself or to
6 substantially injure another. Complainant realleges paragraphs 10-11.

7 **FOURTH CAUSE FOR DENIAL**

8 **(Knowing Falsification)**

9 13. Respondent's application is subject to denial under section 4300, subdivision (c), and
10 section 4301, subdivision (g), in that Respondent knowingly signed a document that falsely
11 represented the existence or nonexistence of a state of facts. Complainant realleges paragraphs
12 10-12.

13 **FIFTH CAUSE FOR DENIAL**

14 **(Unprofessional Conduct)**

15 14. Respondent's application is subject to denial under section Code section 4300,
16 subdivision (c), and section 4301 for unprofessional conduct. Complainant realleges paragraphs
17 10-13.

18 **SIXTH CAUSE FOR DENIAL**

19 **(Conduct Warranting Licensee Discipline)**

20 15. Respondent's application is subject to denial under section 480, subdivisions
21 (a)(3)(A) and (a)(3)(B), in that Respondent committed acts which if done by a licensee would be
22 grounds for suspension or revocation of the license. Complainant realleges paragraphs 10-14.

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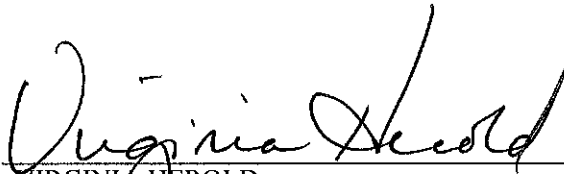
PRAYER

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

1. Denying the application of Marine Mananyan for an Intern Pharmacist Registration; and
2. Taking such other and further action as deemed necessary and proper.

DATED: _____

5/3/14



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

LA2014511242