

1 XAVIER BECERRA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 MOLLY E. SELWAY
Deputy Attorney General
4 State Bar No. 234519
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9082
7 Facsimile: (619) 645-2031
Attorneys for Complainant

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

12 In the Matter of the Statement of Issues Against:

Case No. 6050

13 **SANAM RASHIDI KHOZAGHI**

STATEMENT OF ISSUES

14 **Intern Pharmacist License Applicant**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

22 2. On October 7, 2016, the Board received an application for an Intern Pharmacist
23 License from Sanam Rashidi Khozaghi (Respondent). On September 25, 2016, Sanam Rashidi
24 Khozaghi certified under penalty of perjury to the truthfulness of all statements, answers, and
25 representations in the application. The Board denied the application on December 23, 2016.

26 3. On August 7, 2014, the Board issued Pharmacy Technician Registration Number
27 TCH 140504 to Respondent. On June 11, 2016, Complainant issued a Citation against
28 Respondent and imposed a fine of \$1,400.00. On December 13, 2016, the Board modified the

1 fine imposed to \$750.00. The Pharmacy Technician Registration was in full force and effect at
2 all times relevant to the charges brought herein, and will expire on December 31, 2017, unless
3 renewed.

4 **JURISDICTION**

5 4. This Statement of Issues is brought before the Board, under the authority of the
6 following laws. All section references are to the Business and Professions Code (Code) unless
7 otherwise indicated.

8 5. Code section 4300, subdivision (c) states:

9 The board may refuse a license to any applicant guilty of unprofessional conduct.

10 **STATUTORY PROVISIONS**

11 6. Code section 475 states, in pertinent part:

12 (a) Notwithstanding any other provisions of this code, the provisions
13 of this division shall govern the denial of licenses on the grounds of:

14 ...

(2) Conviction of a crime.

15 ...

16 (4) Commission of any act which, if done by a licentiate of the
17 business or profession in question, would be grounds for suspension or revocation
of license.

18

19 7. Code section 480 states, in pertinent part:

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

22 (1) Been convicted of a crime. A conviction within the meaning of
23 this section means a plea or verdict of guilty or a conviction following a plea of
24 nolo contendere. Any action that a board is permitted to take following the
25 establishment of a conviction may be taken when the time for appeal has elapsed,
or the judgment of conviction has been affirmed on appeal, or when an order
granting probation is made suspending the imposition of sentence, irrespective of
a subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of
the Penal Code.

26 ...

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

....

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. Code section 482 states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under section 480; or
- (b) Considering suspension or revocation of a license under section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

9. Code section 493 states:

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

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

10. Code section 4301 states, in pertinent part:

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

...

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

...

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

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of

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

18

19 11. Code section 4313 states:

20 In determining whether to grant an application for licensure or whether to
21 discipline or reinstate a license, the board shall give consideration to evidence of
22 rehabilitation. However, public protection shall take priority over rehabilitation
23 and, where evidence of rehabilitation and public protection are in conflict, public
24 protection shall take precedence.

25 12. Code section 4314 states, in pertinent part:

26 (a) The board may issue citations containing fines and orders of abatement
27 for any violation of Section 733, for any violation of this chapter or regulations
28 adopted pursuant to this chapter, or for any violation of Division 116
(commencing with Section 150200) of the Health and Safety Code, in accordance
with Sections 125.9, 148, and 4005 and the regulations adopted pursuant to those
sections.

(b) Where appropriate, a citation issued by the board, as specified in this
section, may subject the person or entity to whom the citation is issued to an
administrative fine.

(c) Notwithstanding any other provision of law, where appropriate, a
citation issued by the board may contain an order of abatement. The order of
abatement shall fix a reasonable time for abatement of the violation. It may also
require the person or entity to whom the citation is issued to demonstrate how
future compliance with the Pharmacy Law, and the regulations adopted pursuant
thereto, will be accomplished. A demonstration may include, but is not limited to,
submission of a corrective action plan, and requiring completion of up to six
hours of continuing education courses in the subject matter specified in the order

1 of abatement. Any continuing education courses required by the order of
2 abatement shall be in addition to those required for license renewal.

3

4 **REGULATORY PROVISIONS**

5 13. California Code of Regulations, title 16, section 1769, in pertinent part states:

6 (a) When considering the denial of a facility or personal license under
7 section 480 of the Business and Professions Code, the board, in evaluating the
8 rehabilitation of the applicant and his present eligibility for licensing or
9 registration, will consider the following criteria:

10 (1) The nature and severity of the act(s) or offense(s) under
11 consideration as grounds for denial.

12 (2) Evidence of any act(s) committed subsequent to the act(s) or
13 crime(s) under consideration as grounds for denial under section 480 of the
14 Business and Professions Code.

15 (3) The time that has elapsed since commission of the act(s) or
16 crime(s) referred to in subdivision (1) or (2).

17 (4) Whether the applicant has complied with any terms of parole,
18 probation, restitution or any other sanctions lawfully imposed against the
19 applicant.

20 (5) Evidence, if any, of rehabilitation submitted by the applicant.

21

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

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

FIRST CAUSE FOR DENIAL OF APPLICATION

(June 15, 2016 Conviction for Driving with a BAC of .08% or More on May 22, 2015)

15. Respondent's application for an Intern Pharmacist License is subject to denial
under Code sections 475, subdivision (a)(2) and 480, subdivisions (a)(1) and (a)(3)(A) in that she
was convicted of crimes substantially related to the qualifications, duties, and functions of a

///

1 licensed intern pharmacist, which would also be a ground for discipline for a licensed intern
2 pharmacist under Code section 4301, subdivision (l). The circumstances are as follows:

3 a. On June 15, 2016, in a criminal proceeding entitled *The People of the*
4 *State of California v. Sanam Rashidi Kozaghi*, in Orange County Superior Court, Harbor Justice
5 Center - Newport Beach Facility, Case Number 15HM11513, Respondent was convicted on her
6 plea of guilty of violating Vehicle Code (VC) section 23152, subdivisions (a), driving under the
7 influence of alcohol (DUI), and (b), operating a motor vehicle while having a blood alcohol
8 content (BAC) of .08 percent or more, both misdemeanors. Respondent admitted and the court
9 found true the allegation that at the time of the commission of the offenses, Respondent's BAC
10 was .20 percent or more, a sentencing enhancement under VC section 23538, subdivision (b)(2).

11 b. As a result of the convictions, on June 15, 2016, Respondent was
12 sentenced to three years informal probation, under certain terms and conditions. Respondent was
13 ordered to attend and complete a nine-month, level-two, first-offender alcohol program and a
14 victim impact counseling. Respondent was also ordered to pay fines, fees, penalties, assessments,
15 and restitution, with credit for the equivalent of one day actually served.

16 c. The facts that led to the convictions are that on May 22, 2015, Respondent
17 drove with flat tires in Newport Beach, California. The noise made by the rims, in direct contact
18 with the road, attracted the attention of patrolling officers from the Newport Beach Police
19 Department (NBPD). During initial contact, an officer smelled alcohol coming from inside
20 Respondent's vehicle and observed Respondent's bloodshot and watery eyes, and slurred speech.
21 Respondent admitted to drinking one beer and another drink. Respondent failed to perform a
22 series of field sobriety tests as explained and demonstrated. Respondent was arrested and
23 transported to the NBPD for booking. Respondent was then committed to the Orange County
24 Jail, where she consented to a chemical test, which indicated her BAC as .23 percent.

25 **SECOND CAUSE FOR DENIAL OF APPLICATION**

26 **(Act If Done By Licentiate – Dangerous Use of Alcohol)**

27 16. Respondent's application for an Intern Pharmacist License is subject to denial
28 under Code sections 475, subdivision (a)(4) and 480, subdivision (a)(3)(A) in that she used

1 alcohol to the extent and in a manner that was dangerous and injurious to herself and to the
2 public, which would also be a ground for discipline for a licensed intern pharmacist under Code
3 section 4301, subdivision (h) in that the extent of the use impaired the ability of the licensed
4 person to conduct with safety to the public the practice authorized by the license. The
5 circumstances are that on May 22, 2015, Respondent drove a motor vehicle in Newport Beach,
6 California, in wanton disregard for the safety of persons and property. Respondent had a BAC of
7 .23 percent in her system, as detailed in paragraph 15, above.

8 **THIRD CAUSE FOR DENIAL OF APPLICATION**

9 **(Act If Done By Licentiate – Multiple Convictions of Alcohol Related Offenses)**

10 17. Respondent's application for an Intern Pharmacist License is subject to denial
11 under Code sections 475, subdivision (a)(4) and 480, subdivision (a)(3)(A) in that on June 15,
12 2016, she was convicted of more than one misdemeanor involving the use or consumption of
13 alcohol, which would also be a ground for discipline for a licensed intern pharmacist under Code
14 section 4301, subdivision (k), as described in paragraphs 15 and 16, above, which are
15 incorporated by reference.

16 **MATTERS IN AGGRAVATION**

17 **(Unprofessional Conduct – 2016 Administrative Action by a State Government Agency)**

18 18. Respondent's application for an Intern Pharmacist License is subject to denial
19 under Code section 475, subdivision (a)(4), in relation to Code section 4313, in that the Board
20 issued a citation against Respondent's California Pharmacy Technician Registration. The
21 circumstances are as follows:

22 a. On June 15, 2016, in Case Number 15HM11513, Respondent was
23 convicted on her plea of guilty of violating Vehicle Code (VC) sections 23152, subdivisions (a)
24 and (b), as detailed in paragraph 15, above.

25 b. To address Respondent's misconduct, on July 11, 2016, under Code
26 section 4314, in conjunction with title 16 of the California Code of Regulations, section 1775,
27 the Board issued Respondent Citation Cl 2014 65800 and imposed a fine of \$1,400.00. The
28 Board issued Respondent a citation for the following:

1 i. Respondent violated Code section 4301, subdivision (h), for
2 unprofessional conduct, use of alcoholic beverages to the extent or in a manner as to be
3 dangerous or injurious to the oneself, to a person holding a license under this chapter, or to any
4 other person or to the public, or to the extent that the use impairs the ability of the person to
5 conduct with safety to the public the practice authorized by the license.

6 ii. Respondent violated Code section 4301, subdivision (l), for
7 unprofessional conduct, in that Respondent was convicted of a crime substantially related to the
8 qualifications, functions, and duties of a registered pharmacy technician.

9 c. On December 13, 2016, the Board modified the fine imposed to \$750.00.

10 **PRAYER**

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

- 13 1. Denying the application of Sanam Rashidi Khozaghi for an Intern Pharmacist
14 License; and
15 2. Taking such other and further action as deemed necessary and proper.

16
17
18 DATED: 3/1/17



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

19
20
21 SD2017703904
22 81591186.doc