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

In the Matter of the Accusation Against:  
**YERVAND JANA ZYAN**  
1135 E. Wilson Avenue, #6  
Glendale, CA 91206  
  
Pharmacy Technician License No. TCH 36309  
  
Respondent.

Case No. 3785  
OAH No. 2012120272  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about July 14, 2011, Complainant Virginia K. Herold, in his official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 3785 against YERVAND JANA ZYAN (Respondent) before the Board of Pharmacy. (Accusation attached as **Exhibit A.**)
2. On or about September 12, 2001, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 36309 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 3785, expired on May 31, 2011, and was not renewed. Further, said registration was cancelled on September 4, 2011 pursuant to Business and Professions Code section 4402, sub-section "(e)". Pursuant to

1 Business and Professions Code section 118(b), this lapse in licensure does not deprive the Board  
2 of its authority to institute or continue disciplinary proceedings.

3 3. On or about August 9, 2011, Respondent was served by Certified and First Class Mail  
4 copies of the Accusation No. 3785, Statement to Respondent, Notice of Defense, Request for  
5 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
6 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
7 is required to be reported and maintained with the Board. Respondent's address of record was and  
8 is: 10433 Whitegate Avenue, Sunland, California 91040.

9 4. Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12 5. On or about September 22, 2011, Respondent signed and returned a Notice of  
13 Defense, requesting a hearing in this matter. On or about February 1, 2013, Respondent was  
14 served by Certified and First Class Mail a 'Notice of Hearing' to Respondent's address of record  
15 and it informed him that an administrative hearing in this matter was scheduled at the Office of  
16 Administrative Hearings, Los Angeles, for March 18, 2013. On or about February 8, 2013, a  
17 certified mailing receipt was returned by the U.S. postal service, indicating the Notice of Hearing  
18 package served by certified mail was received and signed for by the addressee. The first class  
19 mailing was not returned and presumed delivered. Respondent failed to appear at the time and  
20 place noticed for said hearing.

21 6. Government Code section 11506 states, in pertinent part:

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

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

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



1 with plastic containing a white powdery substance resembling cocaine and a small plastic  
2 straw, also coated with a white powdery substance. Respondent was arrested and  
3 subsequently charged with possession of cocaine.

4 (2) On or about September 25, 2008, Respondent entered a plea of guilty in the  
5 criminal proceeding entitled *The People of the State of California v. Yervand Janazyan*  
6 (Super. Ct. Los Angeles County, 2008, No. LA059074) of violating Health and Safety Code  
7 section 11350, subdivision (a) [possession of a controlled substance].

8 (3) Pursuant to a plea agreement, proceedings were then suspended and judgment  
9 in the matter deferred pending Respondent's completion of a diversion program. On or  
10 about March 25, 2010, the case was dismissed and proceedings terminated pursuant to  
11 Penal Code section 1000.3.

#### 12 MULTIPLE PUBLIC NUISANCE CONVICTIONS (2006)

13 (4) On or about December 21, 2006, after pleading nolo contendere, Respondent  
14 was convicted in the criminal proceeding entitled *The People of the State of California v.*  
15 *Yervand Janazyan* (Super. Ct. Los Angeles County, 2006, No. 6AV09361) of the following  
16 misdemeanor violations of the City of Lancaster Municipal Code:

17 (a) Lancaster Municipal Code section 8.30.060 [public nuisance - lack of required  
18 landscaping];

19 (b) Lancaster Municipal Code section 8.28.010, subdivision (I) [public nuisance - junk,  
20 trash or debris];

21 (c) Lancaster Municipal Code section 8.28.010, subdivision (H) (2) [public nuisance -  
22 attractive nuisance];

23 (d) Lancaster Municipal Code section 8.28.010, subdivision (J) [public nuisance - visible  
24 trash containers];

25 (e) Lancaster Municipal Code section 8.30.010A, subdivision (12) [public nuisance -  
26 attractive nuisance/pool with inadequate barrier];

27 (f) Lancaster Municipal Code section 8.30.010A, subdivision (12) [public nuisance -  
28 attractive nuisance/clouded/green pool];

1 (g) Lancaster Municipal Code section 15.28.070A [technical code - noncompliant pool  
2 barrier].

3 The Court placed Respondent on 3 years probation, with terms and conditions.

4 (5) The circumstances surrounding the conviction are that on or about August 2,  
5 2006 through on or about October 30, 2006, Respondent violated the Lancaster Municipal  
6 Code, presented a civil nuisance and posed a threat to the public health, safety, or welfare.

7 B. The Board expressly finds that Respondent's conviction(s) on September 25,  
8 2008 and December 21, 2006, and each conviction, is substantially related to the  
9 qualifications, functions, or duties of a pharmacy technician.

10 C. Respondent is subject to disciplinary action under section 4301, subdivisions (j)  
11 and (o), for violating section 4060 and Health and Safety Code section 11350, subdivision  
12 (a), and/or 11170 and/or 11171 for illegal possession of a controlled substance on two  
13 instances as follows:

14 (1) **Possession of Cocaine** - On or about May 15, 2008, Respondent was  
15 found to be in possession of cocaine at the time he passed through the security check-point  
16 at the entrance of a courthouse in Van Nuys, CA. Respondent subsequently pled guilty of  
17 violating Health and Safety Code section 11350, subdivision (a) [possession of a controlled  
18 substance], as described more fully in sub-paragraph "A." above.

19 (2) **Possession of Cocaine and Oxycodone**

20 (a) On or about October 2, 2007, Respondent was observed by Los Angeles Police  
21 Department officers sitting in a car illegally parked in an alley. Officers approached  
22 the vehicle, and asked Respondent if there was anything in the vehicle that they  
23 should know about. Respondent stated that he had a knife in the door. During  
24 subsequent search of Respondent and his vehicle, officers noticed white powder  
25 residue resembling cocaine on the driver's seat, and recovered three clear plastic  
26 baggies containing a white powder resembling cocaine, eleven (11) oxycodone pills,  
27 and one (1) vicodin pill. Respondent was subsequently arrested for illegal  
28 possession of a controlled substance.

1 (b) On or about October 3, 2007, Respondent was formally charged with two  
2 counts of violating Health and Safety Code section 11350, subdivision (a)  
3 [possession of a controlled substance] in the criminal case entitled *The People of the*  
4 *State of California v. Yervand Janazyan* (Super. Ct. Los Angeles County, 2008, No.  
5 LA056988); however, the charges were dismissed on or about February 19, 2008.  
6

7 **ORDER**

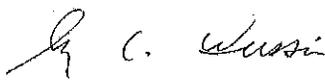
8 **IT IS ORDERED** that Pharmacy Technician License No. TCH 36309, heretofore issued to  
9 Respondent YERVAND JANAZYAN, is revoked.

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 on May 29, 2013.

15 It is so ORDERED ON April 29, 2013.

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

19   
20 By \_\_\_\_\_  
21 STANLEY C. WEISSER  
22 Board President

23 default decision\_LIC.rtf  
24 DOJ Matter ID:LA2010600834

25 Attachment:  
26 Exhibit A: Accusation  
27  
28

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106092  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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. 3785

13 **YERVAND JANAZYAN**  
1135 E. Wilson Avenue, #6  
Glendale, CA 91206

**A C C U S A T I O N**

14 Pharmacy Technician License  
15 No. TCH 36309

16 Respondent.

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 September 12, 2001, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician License No. TCH 36309 to YERVAND JANAZYAN (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on May 31, 2011, unless renewed.

25 **JURISDICTION**

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

28 ///

**STATUTORY PROVISIONS**

1  
2       4.     Section 118, subdivision (b), provides in pertinent part, that the suspension,  
3 expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to  
4 proceed with a disciplinary action during the period within which the license may be renewed,  
5 restored, reissued or reinstated.

6       5.     Section 490 states, in pertinent part:

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

11       "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
12 discipline a licensee for conviction of a crime that is independent of the authority granted under  
13 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
14 of the business or profession for which the licensee's license was issued.

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

21       6.     Section 4060 states, in pertinent part:

22       "No person shall possess any controlled substance, except that furnished to a person upon  
23 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
24 pursuant to section 3640.7, or furnished pursuant to a drug disorder issued by a certified nurse-  
25 midwife pursuant to section 2746.51, a nurse practitioner pursuant to section 2836.1, or a  
26 physician assistant pursuant to section 3502.1, or a naturopathic doctor pursuant to section  
27 3640.5, or a pharmacist pursuant to either subparagraph (d) of paragraph (4) of, or clause (iv) of  
28 subparagraph (A) or paragraph (5) of, subdivision (a) of section 4052. This section shall not

1 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
2 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
3 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
4 labeled with the name and address of the supplier or producer.”

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

7 8. Section 4301 states, in pertinent part:

8 "The Board shall take action against any holder of a license who is guilty of unprofessional  
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

10 Unprofessional conduct shall include, but is not limited to, any of the following:

11 .....

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

14 .....

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

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
3 indictment.

4 . . . .

5 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
6 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
7 federal and state laws and regulations governing pharmacy, including regulations established by  
8 the Board or by any other state or federal regulatory agency.”

9 9. Health and Safety Code Section 11170 provides:

10 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

11 10. Health and Safety Code Section 11171 provides that no person shall prescribe,  
12 administer, or furnish a controlled substance, except under the conditions and in the manner set  
13 forth in the Uniform Controlled Substance Act (setting forth requirements for prescription and  
14 furnishing of narcotics).

15 11. Health and Safety Code Section 11350, subdivision (a) makes it a crime in this  
16 state to possess any controlled substance, unless upon the written prescription of a physician or  
17 other authorized prescriber.

### 18 REGULATORY PROVISIONS

19 12. California Code of Regulations, title 16, section 1770 states, in pertinent part:  
20 "For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to  
21 Division 1.5 (commencing with Section 475), a crime or act shall be considered substantially  
22 related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree  
23 it evidences present or potential unfitness of a licensee or registrant to perform the functions  
24 authorized by his license or registration in a manner consistent with the public health, safety, or  
25 welfare."

### 26 COST RECOVERY

27 13. Section 125.3 provides, in pertinent part, that the Board may request the  
28 administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

### 3 DEFINITION OF TERMS

4 14. "Cocaine," is a Schedule II controlled substance as defined in Health and Safety Code  
5 section 11055, subdivision (b)(1) and is categorized as a dangerous drug pursuant to section 4022.

6 15. "Oxycodone," is a schedule II controlled substance pursuant to Health and Safety  
7 Code section 11055, subdivision (b)(1) and is categorized as a dangerous drug pursuant to section  
8 4022.

9 16. "Vicodin," is a Schedule II controlled substance pursuant to Health and Safety Code  
10 section 11056, subdivision (e) and is categorized as a dangerous drug pursuant to section 4022.

### 11 FIRST CAUSE FOR DISCIPLINE

#### 12 **(Conviction of a Substantially Related Crime)**

13 17. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
14 490, in conjunction with California Code of Regulations, title 16, section 1170, in that  
15 Respondent has been convicted of a crime substantially related to the qualifications, functions, or  
16 duties of a pharmacy technician as follows:

#### 17 **POSSESSION OF COCAINE - 2008**

18 a. On or about May 15, 2008, when Respondent passed through the security check-point  
19 at the entrance to the County courthouse in Van Nuys, CA - a security wand was activated,  
20 indicating Respondent had metal in his left pocket. When asked what was in his pocket,  
21 Respondent stated, "nothing." When asked again, Respondent stated, "nothing," then ran through  
22 the check-point area, and threw the contents of his pocket at a nearby planter. Officers searched  
23 the planter, and located a crumpled gum wrapper lined with plastic containing a white powdery  
24 substance resembling cocaine and a small plastic straw, also coated with a white powdery  
25 substance. Respondent was arrested and subsequently charged with possession of cocaine.

26 b. On or about September 25, 2008, Respondent entered a plea of guilty in the criminal  
27 proceeding entitled *The People of the State of California v. Yervand Janazyan* (Super. Ct. Los  
28

1 Angeles County, 2008, No. LA059074) of violating Health and Safety Code section 11350,  
2 subdivision (a) [possession of a controlled substance].

3 c. Pursuant to a plea agreement, proceedings were then suspended and judgment in the  
4 matter deferred pending Respondent's completion of a diversion program. On or about March 25,  
5 2010, the case was dismissed and proceedings terminated pursuant to Penal Code section 1000.3.

6 **MULTIPLE PUBLIC NUISANCE CONVICTIONS - 2006**

7 d. On or about December 21, 2006, after pleading nolo contendere, Respondent was  
8 convicted in the criminal proceeding entitled *The People of the State of California v. Yervand*  
9 *Janazyan* (Super. Ct. Los Angeles County, 2006, No. 6AV09361) of the following misdemeanor  
10 violations of the City of Lancaster Municipal Code as follows:

- 11 (1) Lancaster Municipal Code section 8.30.060 [public nuisance - lack of required,  
12 landscaping];
- 13 (2) Lancaster Municipal Code section 8.28.010, subdivision (I) [public nuisance - junk,  
14 trash or debris];
- 15 (3) Lancaster Municipal Code section 8.28.010, subdivision (H) (2) [public nuisance -  
16 attractive nuisance];
- 17 (4) Lancaster Municipal Code section 8.28.010, subdivision (J) [public nuisance - visible  
18 trash containers];
- 19 (5) Lancaster Municipal Code section 8.30.010A, subdivision (12) [public nuisance -  
20 attractive nuisance/pool with inadequate barrier];
- 21 (6) Lancaster Municipal Code section 8.30.010A, subdivision (12) [public nuisance -  
22 attractive nuisance/clouded/green pool];
- 23 (7) Lancaster Municipal Code section 15.28.070A [technical code - noncompliant pool  
24 barrier].

25 The Court placed Respondent on 3 years probation, with terms and conditions.

26 e. The circumstances surrounding the conviction are that on or about August 2, 2006  
27 through on or about October 30, 2006, Respondent violated the Lancaster Municipal Code,  
28 presented a civil nuisance and posed a threat to the public health, safety, or welfare.

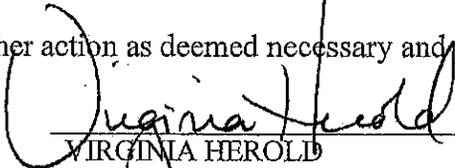


PRAYER

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 License No. TCH 36309, issued to Respondent YERVAND JANAZYAN;
2. Ordering Respondent YERVAND JANAZYAN 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: 7/14/11

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

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