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13 **BEFORE THE**
14 **BOARD OF PHARMACY**
15 **DEPARTMENT OF CONSUMER AFFAIRS**
16 **STATE OF CALIFORNIA**

17 In the Matter of the Accusation Against:

Case No. 3960

18 **GAYANE MILITOSYAN**

DEFAULT DECISION AND ORDER

19 Respondent.

[Gov. Code, §11520]

20 FINDINGS OF FACT

21 1. On or about August 22, 2011, Complainant Virginia Herold, in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
23 Accusation No. 3960 against Gayane Militosyan (Respondent) before the Board of Pharmacy.
24 (Accusation attached as Exhibit A.)

25 2. On or about December 7, 2009, the Board of Pharmacy (Board) issued Pharmacy
26 Technician Registration No. TCH 88325 to Respondent. The Pharmacy Technician Registration
27 was in full force and effect at all times relevant to the charges brought in Accusation No. 3960
28 and will expire on August 31, 2015.

3. On or about September 12, 2014, Respondent was served by Certified and First Class
Mail copies of the Accusation No. 3960, Statement to Respondent, Notice of Defense, Request
for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and

1 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of
3 record was and is:

4 808 East Elk Ave., # 1
5 Glendale, CA 91205

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

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

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3960.

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

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

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 3960, finds that
27 the charges and allegations in Accusation No. 3960, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

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 is \$4,175.00, as of September 14, 2014.

DETERMINATION OF ISSUES

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1. Based on the foregoing findings of fact, Respondent Gayane Militosyan has subjected her Pharmacy Technician Registration No. TCH 88325 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. Violation of sections 490, 4300 and 4301, for suffering two criminal convictions substantially related to the qualifications, functions or duties of a registered pharmacy technician.

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ORDER

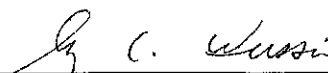
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 88325, heretofore issued to Respondent Gayane Militosyan, is revoked.

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

This Decision shall become effective on December 15, 2014.

It is so ORDERED November 14, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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

11 In the Matter of the Accusation Against:
12 **GAYANE MILITOSYAN**
13 615 S. Adams, #18
Glendale, CA 91205
14
15 Pharmacy Technician Reg. No. TCH 88325
16
17 Respondent.

Case No. 3960

ACCUSATION

19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs ("Board").
24 2. On or about December 7, 2009, the Board of Pharmacy issued Pharmacy Technician
25 Registration No. TCH 88325 to Gayane Militosyan ("Respondent"). The Pharmacy Technician
26 Registration was in full force and effect at all times relevant to the charges brought herein and
27 will expire on August 31, 2011, unless renewed.
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JURISDICTION

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

STATUTORY PROVISIONS

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

5. Section 490 states:

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

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

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or when 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 of the Penal Code."

6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or revoked."

7. 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.

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

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

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

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10 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
11 violation of or conspiring to violate any provision or term of this chapter or of the applicable
12 federal and state laws and regulations governing pharmacy, including regulations established by
13 the board or by any other state or federal regulatory agency."

14 **REGULATORY PROVISIONS**

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

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

22 **COST RECOVERY**

23 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
24 law judge to direct a licentiate found to have committed a violation or violations of the licensing
25 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
26 case.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Convictions of Substantially-Related Crimes)

3 10. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
4 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
6 related to the qualifications, functions or duties of a registered pharmacy technician which to a
7 substantial degree evidence her present or potential unfitness to perform the functions authorized
8 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

9 a. On or about January 6, 2011, after pleading *guilty*, Respondent was convicted of one
10 felony count of violating Penal Code section 530.5, subdivision (a) [getting credit with another's
11 identification], in the criminal proceeding entitled *The People of the State of California v. Gayane*
12 *Militosyan* (Super. Ct. Los Angeles County, 2010, No. GA079041). Respondent was sentenced
13 to 120 days in Jail, placed on probation for a period of 3 years, work program, and fined. The
14 circumstances surrounding the conviction are that on or about December 14, 2009, a Glendale
15 Police Officer, responded to a call to the Glendale Galleria Mall, in the city of Glendale,
16 regarding a woman attempting to purchase gift cards with a re-encoded credit card. Respondent
17 attempted to purchase two \$500 gift cards with a Visa Debit card in her name at the customer
18 service desk, with numbers on the credit card not matching the numbers on the screen. The
19 officer arrived, and subsequently, Respondent was convicted of violating Penal Code section
20 530.5, subdivision (a) [getting credit with another's identification].

21 b. On or about June 13, 2007, after pleading *guilty*, Respondent was convicted of one
22 misdemeanor count of violating Penal Code section 484, subdivision (a) [theft], in the criminal
23 proceeding entitled *The People of the State of California v. Gayane Militosyan* (Super. Ct. Los
24 Angeles County, 2007, No. 7PY02724). Respondent was sentenced to 1 day in Jail, placed on
25 probation for a period of 12 months, and fined. The circumstances surrounding the conviction are
26 that on or about May 7, 2007, Respondent did willfully and knowingly steal, take, carry, lead, or
27 drive away the personal property of another. Respondent was subsequently convicted of violating
28 Penal Code section 484, subdivision (a) [theft].

1 **SECOND CAUSE FOR DISCIPLINE**

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

3 11. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
5 involving moral turpitude, dishonesty, fraud, deceit an/or corruption when Respondent obtained a
6 credit card with another's identification and stole personal property from another person.
7 Complainant refers to and by this reference incorporates the allegations set forth above in
8 paragraph 10, subdivision (a) and (b), inclusive, as though set forth fully.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct/Violate Act)**

11 12. Respondent is subject to disciplinary action under section 4300 and section 4301,
12 subdivision (o), on the grounds of unprofessional conduct, in that Respondent committed acts and
13 was convicted of crimes that violated the pharmacy act. Complainant refers to and by this
14 reference incorporates the allegations set forth above in paragraph 10, subdivision (a) and (b),
15 inclusive, as though set forth fully.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Technician Registration No. TCH 88325, issued
20 to Gayane Militosyan;

21 2. Ordering Gayane Militosyan to pay the Board the reasonable costs of the
22 investigation and enforcement of this case, pursuant to Business and Professions Code section
23 125.3; and

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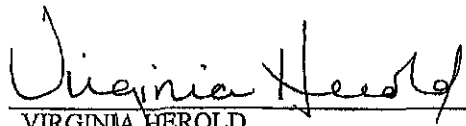
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3.. Taking such other and further action as deemed necessary and proper.

DATED: 8/22/11



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

LA2011500582