

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

**In the Matter of the Petition for Reinstatement of:**

**ARUTYUN H. TER-MATEVOSYAN, Petitioner**

**Case No. 4338**

**OAH No. 2020060391**

**DECISION**

This matter was heard on June 18, 2020, before a quorum of the California State Board of Pharmacy (Board), Department of Consumer Affairs, telephonically in Sacramento, California. Administrative Law Judge John E. DeCure, Office of Administrative Hearings, State of California, presided.

Kristina Jarvis, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Jilbert Tahmazian of the Tahmazian Law Firm represented petitioner Arutyun H. Ter-Matevosyan, who was present throughout the hearing.

Evidence was received, the record was closed, and the matter was submitted for decision on June 18, 2020.

## FACTUAL FINDINGS

### Background and Procedural History

1. On October 23, 1998, the Board issued Pharmacy Technician Registration No. TCH 27516 (registration) to petitioner.
2. On March 26, 2013, the Board filed an Accusation against petitioner, alleging that his registration was subject to discipline based on multiple causes, including: sustaining a conviction for a crime substantially related to the qualifications, functions, or duties of a pharmacy technician; acts involving dishonesty, fraud, or deceit; and possession of prescription drugs without a valid prescription.
3. On February 26, 2014, petitioner stipulated to the following facts and circumstances at the administrative hearing on the Accusation (administrative hearing):

[Petitioner] has been convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. On or about March 1, 2011, after pleading guilty, [petitioner] was convicted of one felony count of violating Penal Code section 459 [second degree commercial burglary] and three felony counts of violating Penal Code section 487, subdivision (a) [grand theft of personal property] in the criminal proceeding entitled *The People of the State of California v. Arutyun Harout* (Super. Ct, Los Angeles County, 2011, No. BA380660). Counts one and two related to the theft of prescription drugs on or about January 12, 2011, from Children's Hospital Los

Angeles (the hospital), located at 4650 Sunset Blvd., Los Angeles, California, Count 3 related to the theft of prescription drugs on or about December 30, 2010, from the hospital, and Count 4 related to the theft of prescriptions drugs on or about January 5, 2011, from the hospital. The Court sentenced [petitioner] to serve one day in the Los Angeles County Jail, placed him on three years' formal probation, and ordered him to pay restitution to the victim hospital, with other terms and conditions. The circumstances surrounding the conviction are as follows:

On or about January 12, 2011, while employed as a pharmacy technician at the hospital, [petitioner] was observed by an Administrative Support Services Officer, via the surveillance camera, going into the pharmacy stock room and removing two prescription bottles. He was then observed manipulating the bottles, and he appeared to be removing the labels. [Petitioner] took the prescription bottles into the restroom, walked out of the restroom with no medication in hand, and exited the hospital to a public street. Witnesses followed him out of the hospital, stopped him, and asked if he would return to the hospital with them. While they were escorting him back, one of the persons heard a rattling sound coming from [petitioner's] leg or foot area. Once they were back at the hospital, he was asked to empty his pockets, and he removed a few coins and a pen. They also asked him to lift up his pants from

around his ankles, where he was found to have concealed two prescription medication bottles in the sock of his left outer ankle area. One of the bottles contained 400 milligrams of Gleevec and the other 450 milligrams of Valcyte. The hospital had an ongoing theft investigation for prior missing prescription medication. [Petitioner] was subsequently arrested by officers of the Los Angeles Police Department for violating Penal Code section 487, subdivision (a).

[Petitioner] stipulated that these acts constitute cause for discipline under: a. Business and Professions Code [Code] . . . sections 4301, subdivision (1), and 490, and California Code of Regulations, title 162, section 1770, for conviction of crimes substantially related to the qualifications, functions or duties of a pharmacy technician, as alleged in the First Cause for Discipline in the Accusation; b. Code section 4301, subdivision (1), in that [petitioner] committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, or substantially injure another, as alleged in the Second Cause for Discipline in the Accusation; and c. Code section 4301, subdivisions (j) and (o), for violating Code section 4060, in that on January 12, 2011, [petitioner] was found to be in possession of prescription drugs, without a valid prescription, as alleged in the Third Cause for Discipline in the Accusation.

4. Petitioner further stipulated at the administrative hearing that a surveillance camera had been installed in the hospital pharmacy because the hospital had experienced losses of prescription drugs, that petitioner was observed on camera and was suspected, and that he stated to police: "I know I did something very stupid but I don't want to say anything else to get myself in a deeper hole." The drugs petitioner took were valued at \$7,081.

5. Petitioner further stipulated that, in an allegation to determine the degree of discipline, if any, to be imposed against him,

[O]n or about December 10, 2009, [petitioner] was convicted of one misdemeanor count of violating Penal Code section 415, subdivision (2) [disturbing the peace] in the criminal proceeding entitled *The People of the State of California v. Arutyun Harout* (Super, Ct. Los Angeles County, 2009, No. 9GN00592). The Court placed him on 12 months' probation, with terms and conditions.

The facts and circumstances of the 2009 conviction involved an initial charge of domestic violence filed against petitioner for alleged spousal abuse; that charge was later reduced to disturbing the peace. At hearing, a police report containing the following admissions by petitioner was admitted in evidence:

[Petitioner] admitted to police that, on December 27, 2008, he and his wife had been in an argument, and he may have touched her by pulling her arm to get her out of their car. He admitted he wanted her out of the car because he was angry at her, and also that he was mad and threw her

phone to the ground. [Petitioner] also admitted that he had consumed many alcoholic drinks.

6. The evidence at the administrative hearing further established that petitioner expressed remorse as follows:

[Petitioner] stated that taking the drugs was "the biggest mistake of my life" and that he accepts responsibility for the theft. Further, [petitioner] takes responsibility for his actions underlying the December 2009 conviction.

7. In February 2014, approximately three years after his three convictions were entered, the court granted petitioner's motion to reduce the felonies to misdemeanors, and have the misdemeanors dismissed pursuant to Penal Code section 1203.4.

8. On April 4, 2014, the Board signed a Decision and Order adopting the administrative law judge's proposed decision in the Accusation matter and revoking petitioner's registration, effective May 5, 2014.

### **Petition for Reinstatement**

9. On February 21, 2020, petitioner signed a Petition for Reinstatement (Petition) of his revoked registration pursuant to Business and Professions Code section 4309. On a date not established by the evidence, petitioner thereafter filed the Petition with the Board, along with attachments in support of his petition.

## **Rehabilitation**

10. Petitioner testified that he stole the drugs from the hospital in 2011 in order to help his uncle who lived in Armenia and was suffering from cancer. Petitioner's father had died of cancer in 2009. Petitioner thought he would be helping his uncle, who could not afford to buy the drugs; but petitioner admitted that at the time, he did not consider the safety issues involved with sending the drugs to another country without ensuring his uncle would be able to safely take the medications. Petitioner's theft of drugs caused him to "lose everything," and left him "in a dark place."

11. Petitioner paid restitution to the hospital for the drugs he had stolen. Since his revocation, he realized he loved his work as a pharmacy technician, but he also discovered he loves to teach pharmacy-related course work. If he achieves re-licensure, he intends to continue teaching.

12. In 2015, petitioner's wife formed the Sunland Tujunga Foundation (foundation), a nonprofit corporation with the intention of establishing a community center containing a mental health sector, resource facility, and education center. Petitioner became the foundation's president in 2017 and has consistently volunteered 20 to 25 hours per week in its support. Before the 2020 health crisis, petitioner was supplying food to local churches weekly. In 2016, petitioner began volunteering at Valley College of Medical Careers (Valley College), dedicating between 8 and 15 hours per week of time assisting teachers with setting up labs and other teacher assistant duties. Petitioner also volunteers to coach youth soccer and has done so since the 1990s.

## **CONTINUING EDUCATION AND EMPLOYMENT**

13. Petitioner reads pharmacological and pharmaceutical textbooks to maintain his knowledge and keep up with developments in the practice of pharmacy. In 2016, petitioner became employed with Valley College, earning between \$600 and \$800 per month. If petitioner is reinstated, he will have to borrow money from relatives in order to pay any Board costs he still owes.<sup>1</sup>

## **CHARACTER REFERENCE LETTERS**

14. Pursuant to Business and Professions Code section 4309, subdivision (b),<sup>2</sup> petitioner submitted reference letters from six letter-writers who recommended reinstatement of petitioner's registration.

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<sup>1</sup> The Board's Decision and Order states: [Petitioner] shall pay to the Board for its costs of investigation and enforcement in the amount of \$4,032.50 within fifteen days of the effective date of this decision. At hearing on the petition, neither the Board, nor petitioner, presented evidence regarding what portion of these costs, if any, petitioner has repaid to date.

<sup>2</sup> Business and Professions Code section 4309, subdivision (b), provides:

The petition shall state any facts required by the Board, and the petition shall be accompanied by two or more verified recommendations from holders of registrations issued by the Board to which the petition is addressed, and two or more recommendations from citizens, each having personal knowledge of the disciplinary penalty imposed by the Board



15. Stephanie Calnek is the Facilities Manager and Registrar/Director of Student and Career Services at Valley College. She has worked with petitioner since he became a volunteer several years ago and considers him a "great asset" who brings great knowledge to the school's students. She further described him as a "great team player" and highly recommended him for teaching or other work in the field of pharmacy. Ms. Calnek did not indicate whether she knew of petitioner's disciplinary proceedings.

16. Nana Otuzbiryanyan worked with petitioner for over 10 years at the hospital. She described him as consistently exceeding expectations in "interpersonal skills, problem solving abilities, and work ethic." She considers him to be an excellent communicator and trainer of new employees, a hard worker, informative, and detail oriented. Ms. Otuzbiryanyan stated she was aware of petitioner's disciplinary proceedings.

17. Rosalie Corpuz has known petitioner since 1998, when they worked together at Century City Hospital. She recognized his good qualities and encouraged him to apply to work at the hospital. She then worked as a pharmacist with him at the hospital and described him as dependable, compassionate, patient, good at his job, knowledgeable, and always willing to help. She was aware of petitioner's disciplinary proceedings.

18. Ani Bagdasaryan is the Secretary of the foundation and has worked with petitioner for several years "organizing and expanding" the foundation to assist the community. She described petitioner as noble, honest, and a man of integrity whose

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and the activities of the petitioner since the disciplinary penalty was imposed.

desire is to assist young adults in the community. She was aware of petitioner's disciplinary proceedings.

19. Anzhela Melkumyan knows petitioner through the foundation and the youth soccer league in which petitioner acts as a coach. She stated he is kind, caring, patient, and a "great leader" of young adults. She was aware of petitioner's disciplinary proceedings.

20. Marty Aghejian worked with petitioner for five years at CBD College, a nonprofit healthcare college in Los Angeles. Petitioner taught pharmacy course work, and Mr. Aghejian, who was the school's Admissions Officer, considered him a unique, understandable, and effective teacher. Mr. Aghejian did not indicate whether he knew of petitioner's disciplinary proceedings.

## **Analysis**

21. Petitioner's explanation of why he stole drugs from his employer was plausible, but did not mitigate the theft involved, or the fact that the drugs may not have been properly administered. However, he has spent years performing substantial community service, which indicates rehabilitation and a strong desire to give back to others. Petitioner's dedication to teaching was also apparent, as was his sincere remorse over his misconduct. Most of the letter-writers who supported him were aware of his disciplinary proceedings, and all of them wholeheartedly recommended him for re-licensure. Nonetheless, he has not practiced as a pharmacy technician in over six years since his registration's revocation. In sum, he has shown sufficient rehabilitation to warrant a probationary registration.

22. The Board's primary goal is consumer protection. Petitioner has admitted the wrongfulness of his actions and has shown adequate rehabilitation. Reinstating

petitioner's registration on a probationary basis as set forth below would not present a danger to the public health, safety, or welfare.

## LEGAL CONCLUSIONS

1. In a proceeding to reinstate a professional registration, petitioner bears the burden to establish rehabilitation. (See *Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398, citing *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315.) The standard of proof is clear and convincing evidence to a reasonable certainty. (*Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1091-1092; *Feinstein v. State Bar* (1952) 39 Cal.2d 541.) Proof of rehabilitation must be sufficient to overcome the Board's previous adverse determination. Petitioner met his burden.

2. "A person whose registration has been revoked or suspended or who has been placed on probation may petition the board for reinstatement or modification of penalty, including modification or termination of probation, after . . . [a]t least three years for reinstatement of a revoked registration." (Bus. & Prof. Code, § 4309, subd. (a)(1).) Petitioner met this requirement.

3. Business and Professions Code section 4309, subdivision (d), sets forth the factors to consider when reviewing a petition to modify a penalty:

- (1) All the activities of the petitioner since the disciplinary action was taken.
- (2) The offense for which the petitioner was disciplined.
- (3) The petitioner's activities during the time the registration was in good standing.

(4) The petitioner's documented rehabilitative efforts.

(5) The petitioner's general reputation for truth and professional ability.

4. When all the relevant rehabilitation criteria set forth in Business and Professions Code section 4309, subdivision (d), are considered, petitioner established substantial rehabilitation. Although the misconduct leading to petitioner's revocation was serious, he has since been dedicated to working in the service of others, including students and youths. He has also established a reputation for honesty, integrity, and professional ability. However, because he has not practiced as a pharmacy technician in several years, petitioner needs to fulfill and satisfy the pharmacy technician competency requirements available through Board probation. It would be consistent with the public health, safety, and welfare to reinstate his registration with terms and conditions designed to ensure his ongoing competency.

## **ORDER**

It is hereby ordered that the petition for reinstatement filed by Arutyun H. Ter-Matevosyan is granted and petitioner's registration shall be reinstated. Petitioner's registration shall be immediately revoked, with the revocation stayed and petitioner placed on probation for a period of three years on the following terms and conditions:

### **Standard Terms and Conditions of Probation**

1. **Obey All Laws** - Petitioner shall obey all state and federal laws and regulations. Petitioner shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws.

- a plea of guilty, or nolo contendere, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment.

- a conviction of any crime.

- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves petitioner's registration or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

2. **Report to the Board** – Petitioner shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, petitioner shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. **Interview with the Board** – Upon receipt of reasonable prior notice, petitioner shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. **Cooperate with Board Staff** – Petitioner shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of petitioner's compliance with the terms and conditions of his probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

5. **Continuing Education** – (omitted as not applicable to pharmacy technicians)

6. **Reporting of Employment and Notice to Employers** – During the period of probation, petitioner shall notify all present and prospective employers of the decision in case number 4338 and the terms, conditions and restrictions imposed on petitioner by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, petitioner shall report to the board in writing the name, physical address, and mailing address of each of his employer(s), and the name(s) and telephone number(s) of all of his direct supervisor(s), as well as

any pharmacist(s)-in-charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known.

Petitioner shall also include the reason(s) for leaving the prior employment. Petitioner shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of petitioner's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning petitioner's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of petitioner undertaking any new employment, petitioner shall cause (a) his direct supervisor, (b) [his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 4338, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the petitioner's responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, petitioner shall cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number 4338, and the terms and conditions imposed thereby.

If petitioner works for or is employed by or through an employment service, petitioner must notify the person(s) described in (a), (b), and (c) above at every entity

licensed by the board of the decision in case number 4338, and the terms and conditions imposed thereby in advance of petitioner commencing work at such licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of petitioner undertaking any new employment by or through an employment service, petitioner shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the board in writing acknowledging that he or she has read the decision in case number 4338, and the terms and conditions imposed thereby. It shall be petitioner's responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

Failure to timely notify present or prospective employer(s) or failure to cause the identified person(s) with that/those employer(s) to submit timely written acknowledgments to the board shall be considered a violation of probation.

**7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

– Petitioner shall further notify the board in writing within ten (10) days of any change in name, residence address, mailing address, e-mail address or phone number. Failure to timely notify the board of any change in employer, name, address, or phone number shall be considered a violation of probation.

**8. Restrictions on Supervision and Oversight of Licensed Facilities** – (omitted as not appropriate for pharmacy technicians)

**9. Reimbursement of Board Costs** – As a condition precedent to successful completion of probation, petitioner shall pay to the board its costs of investigation and prosecution in the amount of \$4,032.50, minus any amount



petitioner may have already repaid to the board since the issuance of its April 4, 2014 Decision and Order. Petitioner shall make said payments in a manner solely within the board's discretion.

There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

Petitioner shall be permitted to pay these costs in a payment plan approved by the board or its designee, so long as full payment is completed no later than six months prior to the end date of probation.

10. **Probation Monitoring Costs** – Petitioner shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

11. **Status of Registration** Petitioner shall, at all times while on probation, maintain an active, current pharmacist registration with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current pharmacist registration shall be considered a violation of probation.

If petitioner's pharmacist registration expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication petitioner's registration shall be subject to all terms and conditions of this probation not previously satisfied.

12. **Registration Surrender While on Probation/Suspension** – Following the effective date of this decision, should petitioner cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, petitioner may relinquish his registration, including any indicia of licensure issued by the board, along with a request to surrender the registration. The board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the registration, petitioner will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the petitioner's registration history with the board.

Upon acceptance of the surrender, petitioner shall relinquish his pocket and/or wall registration, including any indicia of licensure not previously provided to the board within ten (10) days of notification by the board that the surrender is accepted if not already provided. Petitioner may not reapply for any registration from the board for three (3) years from the effective date of the surrender. Petitioner shall meet all requirements applicable to the registration sought as of the date the application for that registration is submitted to the board, including any outstanding costs.

13. **Certification Prior to Resuming Work** – Petitioner shall be suspended, and shall not work as a pharmacy technician, until he has been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has submitted proof of certification to the board, and has been notified by the board or its designee that he may begin work. Failure to achieve certification within six (6) months of the effective date shall be considered a violation of probation.

During suspension, petitioner shall not enter any pharmacy area or any portion of any other board licensed premises of a wholesaler, third-party logistics provider,

veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Petitioner shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall petitioner manage, administer, or assist any licensee of the board. Petitioner shall not have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

During this suspension, petitioner shall not engage in any activity that requires licensure as a pharmacy technician. Petitioner shall not direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or dangerous devices, or controlled substances.

Failure to comply with any such suspension shall be considered a violation of probation.

Petitioner shall maintain an active, current certification as defined by Business and Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall submit proof of re-certification or renewal of certification to the board within ten (10) days of receipt. Failure to maintain active, current certification or to timely submit proof of same shall be considered a violation of probation.

14. **Practice Requirement – Extension of Probation** Except during periods of suspension, petitioner shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 48 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, petitioner must

nonetheless comply with all terms and conditions of probation, unless petitioner receives a waiver in writing from the board or its designee.

If petitioner does not practice as a pharmacy technician in California for the minimum number of hours in any calendar month, for any reason (including vacation), petitioner shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which petitioner will resume practice at the required level. Petitioner shall further notify the board in writing within ten (10) days following the next calendar month during which petitioner practices as a pharmacy technician in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for petitioner's probation to be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months. The board or its designee may post a notice of the extended probation period on its website.

15. **Violation of Probation** – If petitioner has not complied with any term or condition of probation, the board shall have continuing jurisdiction over petitioner, and the board shall provide notice to petitioner that probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed. The board or its designee may post a notice of the extended probation period on its website.

If petitioner violates probation in any respect, the board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against petitioner during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

16. **Completion of Probation** – Upon written notice by the board or its designee indicating successful completion of probation, petitioner's registration will be fully restored.

This Decision shall become effective at 5:00 p.m. on October 15, 2020.

It is so ORDERED on September 15, 2020.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Greg Lippe  
Board President

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

In the Matter of the Accusation Against:

**ARUTYUN H. TER MATEVOSYAN**  
411 Piedmont Avenue, #105  
Glendale, CA 91206

Pharmacy Technician Registration  
No. TCH 27516

Respondent.

Case No. 4338

OAH No. 2013071024

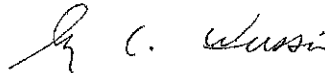
**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 5, 2014.

It is so ORDERED on April 4, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

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STAN C. WEISSER  
Board President

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

In the Matter of the Accusation Against:

ARUTYUN H. TER MATEVOSYAN,  
aka ARUTYUN HAROUT,

Respondent.

Case No. 4338

OAH No. 2013071024

**PROPOSED DECISION**

This matter came on regularly for hearing on February 26, 2014, at Los Angeles, California, before David B. Rosenman, Administrative Law Judge, Office of Administrative Hearings, State of California. Complainant Virginia Herold was represented by Deputy Attorney General Helene E. Swanson. Respondent Arutyun H. Ter Matevosyan was not present, but he was represented by Eric D. Shevin, Attorney at Law.

Oral and documentary evidence was presented and the matter was submitted for decision on February 26, 2014.

**FACTUAL FINDINGS**

The Administrative Law Judge finds the following facts:

1. The Accusation was issued by Complainant Virginia Herold in her official capacity as Executive Officer of the Board of Pharmacy (Board). Respondent filed a request for a hearing.
2. Notice of the date, time and location of the hearing was served on Respondent at his address of record on file with the Board, which was the same address listed in his Notice of Defense. Proper jurisdiction was established over Respondent.
3. On October 23, 1998, the Board issued Pharmacy Technician Registration Number TCH 27516 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the facts found below and will expire on August 31, 2014. Respondent is also known as Arutyun Harout.

4. Respondent stipulated to the truth of some of the allegations in the Accusation (Ex. 1), as set forth below. It is therefore found that the following facts exist.

“12. . . . Respondent has been convicted of a crime substantially related to the qualifications, functions or duties of a pharmacy technician. On or about March 1, 2011, after pleading guilty, Respondent was convicted of one felony count of violating Penal Code section 459 [second degree commercial burglary] and three felony counts of violating Penal Code section 487, subdivision (a) [grand theft of personal property] in the criminal proceeding entitled *The People of the State of California v. Arutyun Harout* (Super. Ct, Los Angeles County, 2011, No. BA380660). Counts one and two related to the theft of prescription drugs on or about January 12, 2011 from Children's Hospital Los Angeles (the hospital), located at 4650 Sunset Blvd., Los Angeles, California, Count 3 related to the theft of prescription drugs on or about December 30, 2010 from the hospital, and Count 4 related to the theft of prescriptions drugs on or about January 5, 2011 from the hospital. The Court sentenced Respondent to serve one day in the Los Angeles County Jail, placed him on three years formal probation, and ordered him to pay restitution to the victim hospital, with other terms and conditions. The circumstances surrounding the conviction are as follows:

“13. On or about January 12, 2011, while employed as a pharmacy technician at the hospital, Respondent was observed by an Administrative Support Services Officer, via the surveillance camera, going into the pharmacy stock room and removing two prescription bottles. He was then observed manipulating the bottles, and he appeared to be removing the labels. Respondent took the prescription bottles into the restroom, walked out of the restroom with no medication in hand, and exited the hospital to a public street. Witnesses followed him out of the hospital, stopped him, and asked if he would return to the hospital with them. While they were escorting him back, one of the persons heard a rattling sound coming from Respondent's leg or foot area. Once they were back at the hospital, he was asked to empty his pockets, and he removed a few coins and a pen. They also asked him to lift up his pants from around his ankles, where he was found to have concealed two prescription medication bottles in the sock of his left outer ankle area. One of the bottles contained 400 milligrams of Gleeevec and the other 450 milligrams of Valcyte. The hospital had an ongoing theft investigation for prior missing prescription medication. Respondent was subsequently arrested by officers of the Los Angeles Police Department for violating Penal Code section 487, subdivision (a).”

5. Respondent stipulated that these acts constitute cause for discipline under:

a. Business and Professions Code<sup>1</sup> sections 4301, subdivision (1), and 490, and California Code of Regulations, title 16<sup>2</sup>, section 1770, for conviction of crimes substantially

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<sup>1</sup> All statutory references are to the Business and Professions Code except where noted otherwise.



related to the qualifications, functions or duties of a pharmacy technician, as alleged in the First Cause for Discipline in the Accusation;

b. Code section 4301, subdivision (1), in that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, or substantially injure another, as alleged in the Second Cause for Discipline in the Accusation; and

c. Code section 4301, subdivisions (j) and (o), for violating Code section 4060, in that on January 12, 2011, Respondent was found to be in possession of prescription drugs, without a valid prescription, as alleged in the Third Cause for Discipline in the Accusation.

6. A surveillance camera had been installed in the hospital pharmacy because the hospital had experienced losses of prescription drugs. Based on the dates and work shifts of the losses, the hospital had narrowed down a list of suspected employees. After Respondent was observed as noted above, and police arrived, Respondent made the following statement, reflected in a police report: "I know I did something very stupid but I don't want to say anything else to get myself in a deeper hole." (Ex. 5, p. 89.)

7. The value of the drugs found in Respondent's possession was \$7,081.70.

8. With respect to the March 1, 2011 convictions, Respondent filed petitions to have the felonies reduced to misdemeanors under Penal Code section 17b, and to expunge the convictions under Penal Code section 1203.4. On February 24, 2014, those petitions were granted and Respondent's pleas of guilty were set aside, pleas of not guilty were entered, and the criminal complaint was dismissed.

9. Respondent stipulated that, to determine the degree of discipline, if any, to be imposed against Respondent, "on or about December 10, 2009, Respondent was convicted of one misdemeanor count of violating Penal Code section 415, subdivision (2) [disturbing the peace] in the criminal proceeding entitled *The People of the State of California v. Arutyun Harout* (Super, Ct. Los Angeles County, 2009, No. 9GN00592). The Court placed him on 12 months probation, with terms and conditions." (Accusation, Ex. 1, p. 6.)

10. The December 2009 conviction is not alleged as a separate basis for discipline. Rather, it is additional information to consider in determining the level of discipline, if any. Respondent did not stipulate to the allegation of the facts underlying the December 2009 conviction (Accusation, Ex. 1, p. 6, l. 26, to p. 7, l. 15). Respondent objected to the motion to receive Exhibit 6 into evidence on the grounds of hearsay. Exhibit 6 is a police report related to the events underlying the December 2009 conviction. The objection was taken

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<sup>2</sup> All references to regulations are from the California Code of Regulations, title 16, and are referred to as "Regulation."

under submission, and it is decided as follows. The objection is sustained in part and denied in part. Portions of the police report are “administrative hearsay.”<sup>3</sup> Other portions contain admissions by Respondent that are an exception to the hearsay rule and will be used as a basis for a factual finding.

11. Respondent admitted to police that, on December 27, 2008, he and his wife had been in an argument, and he may have touched her by pulling her arm to get her out of their car. He admitted he wanted her out of the car because he was angry at her, and also that he was mad and threw her phone to the ground. Respondent also admitted that he had consumed many alcoholic drinks. A statement by a witness, that she observed Respondent punching a woman in the car, supplements and explains Respondent’s admissions. Respondent was arrested for violating Penal Code section 273.5. [inflict corporal injury on spouse], and he was transported to the Glendale City Jail.

12. Respondent submitted a written statement (Ex. E). An objection of hearsay was sustained and the statement was received as administrative hearsay. The portion of the statement relating to Respondent’s reasons for taking the drugs does not support or explain other evidence and, therefore, cannot be the basis for any factual findings. It was established that Respondent stated that taking the drugs was “the biggest mistake of my life” and that he accepts responsibility for the theft. Further, Respondent takes responsibility for his actions underlying the December 2009 conviction.

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<sup>3</sup> Under Government Code section 11513, subdivision (d), hearsay evidence, when objected to and not otherwise admissible, may be used to supplement or explain other evidence but may not, by itself, support a factual finding. This is often referred to as “administrative hearsay.” Therefore, evidence that is not hearsay can be used for any purpose, but evidence that is administrative hearsay can only be used for these limited purposes. As explained in *Lake v. Reed* (1997) 16 Cal.4th 448, although a police report was hearsay, a portion was an exception to the hearsay rule and could be used as direct evidence and for any purpose. The Court noted that the report, although unsworn, was potentially admissible because it was the type of evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, as referenced in Government Code section 11513, subdivision (c). Further, the report was prepared by a public official in the scope of his duties and was therefore an official record under Evidence Code section 1280. The defendant’s admission to the officer that he was driving was an exception to the hearsay rule under Evidence Code section 1220 relating to admissions. A witness statement confirming that the defendant was driving was administrative hearsay, and could be used only to explain or supplement the defendant’s admission. However, statements made by witnesses to the officer, as summarized in the report, were hearsay, no exception applied, and this administrative hearsay by itself could not be used to support a factual finding. In *Komizu v. Gourley* (2002) 103 Cal.App.4th 1001, a report of blood alcohol content did not qualify for an exception to the hearsay rule, but was admitted subject to the administrative hearsay rule in Government Code section 11513, subdivision (d). the blood alcohol report was properly used to explain and supplement a police officer’s report, which contained circumstantial evidence of the driver’s blood alcohol level. Combined, these two sources provided the trial court with substantial evidence sufficient to support a factual finding.

13. Complainant established that a pharmacy technician would be able to physically handle all controlled substances in a pharmacy under the general supervision of a pharmacist. Pharmacists and pharmacy technicians should not furnish prescribed drugs for themselves or family members.

14. Complainant incurred costs for the investigation and enforcement of this case in the amount of \$4,032.50, based upon 15.25 hours at \$170 per hour by the Deputy Attorney General and her supervisor and 12.0 hours at \$120 per hour by a paralegal. These costs are reasonable.

### LEGAL CONCLUSIONS AND DISCUSSION

Based upon the foregoing factual findings, the Administrative Law Judges makes the following legal conclusions:

1. In this proceeding based on an Accusation, the burden of proof is on Complainant to establish alleged violations by "clear and convincing proof to a reasonable certainty." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) This means the burden rests on Complainant to establish the charging allegations by proof that is clear, explicit and unequivocal—so clear as to leave no substantial doubt, and sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478.)

2. Under Code section 4060, a person "shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician" or numerous other listed legal prescribers. The section does not apply "to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist," or other possessors "if in stock in containers correctly labeled with the name and address of the supplier or producer."

3. The drugs found in Respondent's possession were not in labeled containers.

4. Under Code section 4300, subdivision (a), the Board may suspend or revoke a license or registration.

5. Section 4301 states, in pertinent part, that the Board shall take action against any holder of a license who is guilty of unprofessional conduct, which includes:

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

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

“(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 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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 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.”

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

6. Under Code section 490, the Board may revoke or suspend a registration for conviction of a crime substantially related to the qualifications, functions, and duties of a licensee.”

7. Under Regulation 1770, a crime “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.”

8. Gleevec and Valcyte are categorized as a dangerous drug under Code section 4022.

9. Cause exists to suspend or revoke Respondent’s registration as a pharmacy technician under Code sections 4301, subdivision (l), and 490, for conviction of a crime

substantially related to the qualifications, functions or duties of a registrant, as set forth in Factual Findings 4 and 5.

10. Cause exists to suspend or revoke Respondent's registration as a pharmacy technician under Code sections 4300 and 4301, subdivision (f), for committing acts involving dishonesty, fraud, or deceit, as set forth in Factual Findings 4 and 5.

11. Cause exists to suspend or revoke Respondent's registration as a pharmacy technician under Code sections 4300 and 4301, subdivisions (j) and (o), for illegal possession of dangerous drugs without valid prescriptions, as set forth in Factual Findings 4 and 5.

12. Under section 125.3, the Board may request the administrative law judge to direct a licentiate found to have committed violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case. These reasonable costs are \$4,032.50, as set forth in Factual Finding 14.

13. Respondent was not present at the hearing. His explanation for taking the medications in his written statement (Ex. E) could not be considered over the hearsay objection. He was not available for cross examination by Complainant. His Statement in Mitigation (Ex. L) was prepared by his attorney, was marked for identification only, and was not received in evidence. Other documents were marked for identification and excluded from evidence as they were hearsay. Therefore, there was no competent evidence of Respondent's explanation, remorse or rehabilitation, other than as noted in the Factual Findings.

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14. Respondent was convicted of theft of medications on three separate dates while he was employed at the hospital. The third time, the value of the stolen medications was over \$7,000. These are serious crimes indicating an abdication of Respondent's responsibilities as a registered pharmacy technician. Although the convictions were expunged, there is little other competent evidence of rehabilitation by Respondent. Under these circumstances, for the protection of the public health and safety, his registration will be revoked.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

Pharmacy Technician Registration Number TCH 27516 of Respondent Arutyun H. Ter Matevosyan is revoked. Respondent shall relinquish his technician registration to the Board within ten days of the effective date of this decision. Respondent may not reapply or petition the Board for reinstatement of his revoked technician registration for three years from the effective date of this decision.

A condition of reinstatement shall be that Respondent is certified as defined in Code section 4202, subdivision (a)(4), and provides satisfactory proof of certification to the Board.

Respondent shall pay to the Board for its costs of investigation and enforcement in the amount of \$4,032.50 within fifteen days of the effective date of this decision.

DATED: March 7, 2014.



DAVID B. ROSENMAN  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 HELENE E. SWANSON  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4338

12 **ARUTYUN H. TER MATEVOSYAN,**  
13 **a.k.a. ARUTYUN HAROUT**  
1280 Boynton Street, #21  
14 Glendale, CA 91205

**ACCUSATION**

15 Pharmacy Technician Registration  
No. TCH 27516

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
22 2. On or about October 23, 1998, the Board of Pharmacy (Board) issued Pharmacy  
23 Technician Registration No. TCH 27516 to Arutyun H. Ter Matevosyan, also known as Arutyun  
24 Harout (Respondent). The Pharmacy Technician Registration was in full force and effect at all  
25 times relevant to the charges brought herein and will expire on August 31, 2014, unless renewed.

26 **JURISDICTION**

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

STATUTORY PROVISIONS

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

5. Section 490 states, in pertinent part:

"(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 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 4060 states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-



1 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled.  
2 with the name and address of the supplier or producer."

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

5 8. Section 4301 states, in pertinent part:

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

9 . . . .

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

13 . . . .

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

16 . . . .

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

1 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
5 indictment.

6 . . . .

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

#### 11 REGULATORY PROVISIONS

12 9. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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

#### 19 COST RECOVERY

20 10. Section 125.3 states, in pertinent part, that the Board may request the administrative  
21 law judge to direct a licensee found to have committed a violation or violations of the licensing  
22 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
23 case.

#### 24 11. DANGEROUS DRUGS

25 a. "Gleevec," is the brand name for Imatinib, used to treat certain types of leukemia and  
26 is categorized as a dangerous drug pursuant to section 4022.

27 b. "Valcyte," is an antiviral drug used to treat cytomegalovirus retinitis, and is  
28 categorized as a dangerous drug pursuant to section 4022.

1 **FIRST CAUSE FOR DISCIPLINE**

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

3 12. Respondent is subject to disciplinary action under Section 4301, subdivision (l) and  
4 490, in conjunction with California Code of Regulations, title 16, Section 1770, in that  
5 Respondent has been convicted of a crime substantially related to the qualifications, functions or  
6 duties of a pharmacy technician. On or about March 1, 2011, after pleading guilty, Respondent  
7 was convicted of one felony count of violating Penal Code section 459 [second degree  
8 commercial burglary] and three felony counts of violating Penal Code section 487, subdivision  
9 (a) [grand theft of personal property] in the criminal proceeding entitled *The People of the State*  
10 *of California v. Arutyun Harout* (Super. Ct. Los Angeles County, 2011, No. BA380660). Counts  
11 one and two related to the theft of prescription drugs on or about January 12, 2011 from  
12 Children's Hospital Los Angeles (the hospital), located at 4650 Sunset Blvd., Los Angeles,  
13 California, Count 3 related to the theft of prescription drugs on or about December 30, 2010 from  
14 the hospital, and Count 4 related to the theft of prescriptions drugs on or about January 5, 2011  
15 from the hospital. The Court sentenced Respondent to serve one day in the Los Angeles County  
16 Jail, placed him on three years formal probation, and ordered him to pay restitution to the victim  
17 hospital, with other terms and conditions. The circumstances surrounding the conviction are as  
18 follows:

19 13. On or about January 12, 2011, while employed as a pharmacy technician at the  
20 hospital, Respondent was observed by an Administrative Support Services Officer, via the  
21 surveillance camera, going into the pharmacy stock room and removing two prescription bottles.  
22 He was then observed manipulating the bottles, and he appeared to be removing the labels.  
23 Respondent took the prescription bottles into the restroom, walked out of the restroom with no  
24 medication in hand, and exited the hospital to a public street. Witnesses followed him out of the  
25 hospital, stopped him, and asked if he would return to the hospital with them. While they were  
26 escorting him back, one of the persons heard a rattling sound coming from Respondent's leg or  
27 foot area. Once they were back at the hospital, he was asked to empty his pockets, and he  
28 removed a few coins and a pen. They also asked him to lift up his pants from around his ankles,

1 where he was found to have concealed two prescription medication bottles in the sock of his left  
2 outer ankle area. One of the bottles contained 400 milligrams of Gleevec and the other 450  
3 milligrams of Valcyte. The hospital had an ongoing theft investigation for prior missing  
4 prescription medication. Respondent was subsequently arrested by officers of the Los Angeles  
5 Police Department for violating Penal Code section 487, subdivision (a).

6 **SECOND CAUSE FOR DISCIPLINE**

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

8 14. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in  
9 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to  
10 substantially benefit himself, or substantially injure another. Complainant refers to, and by this  
11 reference incorporates, the allegations set forth above in Paragraphs 12 and 13, as though set forth  
12 fully.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Illegal Possession of Prescription Drugs without a Valid Prescription)**

15 15. Respondent is subject to disciplinary action under Section 4301, subdivision (j) and  
16 (o), for violating Section 4060, in that on or about January 12, 2011, Respondent was found to be  
17 in possession of prescription drugs, without a valid prescription. Complainant refers to, and by  
18 this reference incorporates, the allegations set forth above in Paragraphs 12 and 13, as though set  
19 forth fully.

20 **DISCIPLINARY CONSIDERATIONS**

21 16. To determine the degree of discipline, if any, to be imposed on Respondent,  
22 Complainant alleges that on or about December 10, 2009, Respondent was convicted of one  
23 misdemeanor count of violating Penal Code section 415, subdivision (2) [disturbing the peace] in  
24 the criminal proceeding entitled *The People of the State of California v. Arutyun Harout* (Super.  
25 Ct. Los Angeles County, 2009, No. 9GN00592). The Court placed him on 12 months probation,  
26 with terms and conditions. The circumstances surrounding the conviction are as follows:

27 17. On or about December 27, 2008, a witness saw a male punching a female sitting in  
28 the driver's seat, in the upper part of her body, pulling on her hair, and then continue punching

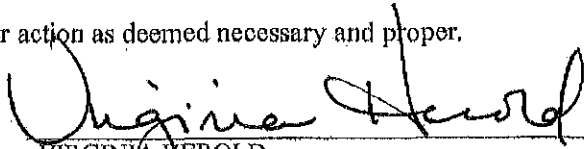
1 her. She could not understand what they were saying because they were speaking loudly in  
2 Armenian. The male exited the vehicle and threw a cell phone on the asphalt. He got back in the  
3 car and punched the female again several times, and then they drove off in the vehicle. Glendale  
4 Police officers went to Respondent's house, and confirmed with Respondent that he had been in a  
5 car earlier that evening with his wife. When asked if he hit his wife, he said "no". A police  
6 officer asked Respondent if he punched his wife, and he replied "I don't remember, I had a lot to  
7 drink." The officers went to Respondent's wife's parents' house, where they found Respondent's  
8 wife, and interviewed her about the incident. They found her to be evasive and she denied that  
9 her husband had hit her. Both Respondent and his wife admitted to the officers that they had had  
10 "a little argument". The officers reviewed text messages on Respondent's cell phone, on or about  
11 which contained, among other text messages, a text message from his wife to Respondent which  
12 said "I deserve better I need to give my son better he will never learn to drink and beat his wife. .  
13 ." Based upon their investigation, the officers believed that Respondent had committed a  
14 domestic violence abuse, Respondent was arrested for violating Penal Code section 273.5 [inflict  
15 corporal injury on spouse], and transported to the Glendale City Jail.

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 27516, issued  
20 to Respondent;
- 21 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
22 enforcement of this case, pursuant to section 125.3; and
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 3/26/13



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

28 LA2012507138; 51161660.doc