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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. 6100

13 **MANIA APRIAN**
3138 Montrose Avenue, Unit 114
Glendale, CA 91214

A C C U S A T I O N

14 Pharmacy Technician Registration No. TCH
112880

15 Respondent.
16

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 20, 2011, the Board issued Pharmacy Technician Registration
23 No. TCH 112880 to Mania Aprian (Respondent). The Pharmacy Technician Registration was in
24 full force and effect at all times relevant to the charges brought herein and will expire on
25 November 30, 2018, 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.

1 **STATUTORY PROVISIONS**

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

5 5. Section 490 states, in pertinent part:

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

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

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

20 6. Section 493 states:

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

1 qualifications, functions, and duties of the licensee in question.

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

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

6 8. Section 4300.1 states:

7 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
8 of law or by order or decision of the board or a court of law, the placement of a license on a
9 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
10 jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding
11 against, the licensee or to render a decision suspending or revoking the license."

12 9. Section 4301 states:

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

16

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

20

21 "(I) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The
27 board may inquire into the circumstances surrounding the commission of the crime, in order to fix
28 the degree of discipline or, in the case of a conviction not involving controlled substances or

1 dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a
3 conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of
4 this provision. The board may take action when the time for appeal has elapsed, or the judgment of
5 conviction has been affirmed on appeal or when an order granting probation is made suspending
6 the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
7 Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
8 setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. . . .”

9 **REGULATORY PROVISIONS**

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

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

17 **COST RECOVERY**

18 11. Section 125.3 provides that the Board may request the administrative law judge to
19 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
20 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

21 **FIRST CAUSE FOR DISCIPLINE**

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

23 12. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
24 subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the
25 grounds of unprofessional conduct, in that on or about January 23, 2017, Respondent was
26 convicted of a crime substantially related to the qualifications, functions or duties of a registered
27 pharmacy technician, as follows:

28 a. On or about January 23, 2017, after pleading nolo contendere, Respondent was

1 convicted of two misdemeanor counts, Count 2, violating Penal Code section 484(a)/490.2 [petty
2 theft], and interlineated Count 3, violating 415(1) [public fighting; offensive words] in the criminal
3 proceeding entitled *The People of the State of California v. Mania Aprian* (Super. Ct. L.A.
4 County, 2017, No. 6AR31514). The Court ordered Respondent to complete five days of
5 community labor and stay away from Barney's, Beverly Hills. On or about July 24, 2017, after
6 Respondent completed community labor, the Court dismissed Count 2 pursuant to Penal Code
7 section 1385, and ordered Respondent to pay fines on remaining conviction.

8 b. The circumstances underlying the conviction are that on or about February 19, 2016,
9 while a shopping clerk was wrapping a purchased item for Respondent, Respondent shoplifted a
10 \$185 glass ashtray from Barneys New York, Beverly Hills, by grabbing the ashtray along with her
11 jacket and placing them into another shopping bag that she was carrying. Respondent was
12 uncooperative and not compliant with store loss prevention officers.

13 **SECOND CAUSE FOR DISCIPLINE**

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

15 13. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision
16 (f), on the grounds of unprofessional conduct, in that on and about February 19, 2016, Respondent
17 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant
18 refers to and by this reference incorporates the allegations set forth above in paragraph 12,
19 inclusive, as though set forth fully.

20 **DISCIPLINE CONSIDERATIONS**

21 14. To determine the degree of discipline, Complainant alleges that:

22 a. On or about July 12, 2004, after pleading nolo contendere, Respondent was convicted
23 of one felony count of violating Welfare and Institutions Code section 10980(c)(2) [aid by
24 misrepresentation over \$400, to wit, \$14,769.00], in the criminal proceeding entitled *The People*
25 *of the State of California v. Mania Aprian* (Super. Ct. in Los Angeles Superior Court, 2004, Case
26 No. BA262462). The Court placed Respondent on three year of probation, and ordered her to
27 complete 150 hours of community service. On or about July 12, 2004, the Court dismissed the
28 matter pursuant to Penal Code section 1203.4. The circumstances underlying the conviction

1 occurred on and between July 2001, and January 31, 2003.

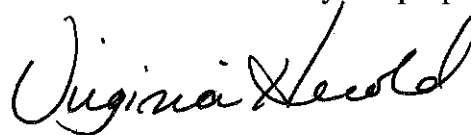
2 b. On or about September 22, 2009, after pleading nolo contendere to one interlineated
3 misdemeanor count, Count 2, violating Penal Code section 484(a) [theft] in the criminal proceeding
4 entitled *The People of the State of California v. Mania Aprian* (Super. Ct. L.A. County, 2009,
5 No. 9BV01182), the Court accepted a conditional plea, ordering Respondent to stay away from
6 Neiman Marcus, complete 500 hours of community service, complete eight hours of anti-theft
7 classes, and pay fines. On or about October 8, 2010, after Respondent completed community
8 service, anti-theft classes and paid fines, the Court convicted Respondent of violating Count 2,
9 placed her on one day of probation, and dismissed the matter pursuant to Penal Code section
10 1203.4. The circumstances underlying the conviction are that on or about June 16, 2009,
11 Respondent shoplifted a \$597.00 Gucci shirt from Neiman Marcus, Beverly Hills, by concealing
12 the shirt under another item and placing the shirt into her shoulder handbag. Respondent
13 processed an exchange item in the store before leaving.

14 **PRAYER**

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

- 17 1. Revoking or suspending Pharmacy Technician Registration No. TCH 112880, issued
18 to Mania Aprian
- 19 2. Ordering Mania Aprian to pay the Board of Pharmacy the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3; and,
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 4/16/18



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

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