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

10 In the Matter of the Accusation Against:

Case No. 3893

11 **JORGE ARTURO FAUSTO**
12 8977 San Carlos
13 South Gate, CA 90280

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 30829

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about September 21, 1999, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 30829 to Jorge Arturo Fausto (Respondent). On August 25, 2011, the license
23 was summarily suspended during term of incarceration, pursuant to Business and Professions
24 Code section 4311. The Pharmacy Technician License expired on July 31, 2011, and has not
25 been 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 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **COST RECOVERY**

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

8 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

9 10. Hydrocodone, with trade names of Lortab, Norco and Vicodin, are Schedule III
10 controlled substances pursuant to Health and Safety Code section 11056(e)(4), and are
11 categorized as dangerous drugs pursuant to section 4022.

12 11. Xanax, a brand name for alprazolam, is a Schedule IV controlled substance pursuant
13 to Health and Safety Code section 11057(d)(1), and is categorized as a dangerous drug pursuant
14 to section 4022.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Criminal Conviction)**

17 12. Respondent is subject to disciplinary action under section 4301, subdivision (I), in
18 that Respondent was convicted of a crime substantially related to the qualifications, functions,
19 and duties of a registered pharmacy technician, as follows.

20 a. On or about November 9, 2010, in the criminal proceeding entitled *The People of the*
21 *State of California v. Jorge Arturo Fausto* (Super. Ct. Los Angeles County, 2010, No.
22 VA109894), Respondent entered a plea of nolo contendere and was convicted of one felony count
23 of violating Health and Safety Codes section 11375(b)(1) [possess controlled substances for sale].
24 He was sentenced to two (2) years in state prison.

25 1) The circumstances underlying the conviction are that on or about August 20, 2008,
26 Respondent was arrested by the South Gate Police Department after officers observed
27 Respondent engage in an illegal drug transaction. At the time of his arrest, Respondent
28 was in possession of 1,200 Hydrocodone pills and \$2,650.00 in cash. Respondent admitted

1 to the arresting officers that he had stolen the Hydrocodone pills from his employer,
2 Region Square Pharmacy.

3 b. On or about May 5, 2010, in the criminal proceeding entitled *The People of the State*
4 *of California v. Jorge Arturo Fausto* (Super. Ct. Los Angeles County, 2008, No. SA074235),
5 Respondent entered a plea of guilty and was convicted on two (2) felony counts: (1) Penal Code
6 section 487(a) [grand theft]; and (2) Penal Code section 211 [second degree robbery]. Respondent
7 was sentenced to six (6) months in jail for the grand theft conviction and two (2) years in prison
8 for the robbery conviction.

9 1) The circumstances underlying Respondent's grand theft conviction are that on or
10 about November 7, 2008, while working as a pharmacy technician for Regent Square
11 Pharmacy, Respondent placed an unauthorized order for controlled substances using the
12 pharmacy's internet password access. Upon delivery to the pharmacy, Respondent stole
13 the controlled substances, which included more than 1000 Hydrocodone tablets. When
14 confronted by his employer about the unauthorized order and missing narcotics,
15 Respondent admitted to ordering and stealing the drugs and provided his employer with a
16 signed confession on or about November 12, 2008.

17 2) The circumstances underlying Respondent's conviction for second degree robbery are
18 that on or about February 12, 2009, using his familiarity with pharmacy business practices
19 and a previous employer's internet password access, Respondent placed an order for a
20 large quantity of controlled substances, including 3,000 tablets of Super-Vicodin, 43,200
21 tablets of Ephedrine¹, and 100 tablets of generic Xanax, to be delivered his former
22 employer the following day. The next day, Respondent laid in wait for the delivery truck
23 and then carjacked the vehicle at gunpoint, kidnapping the driver and, ultimately, robbing
24 the vehicle of its contents. Respondent was arrested for these crimes on or about February
25 28, 2009, following a police investigation.

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28 ¹ Ephedrine is used for making methamphetamine.

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SECOND CAUSE FOR DISCIPLINE

(Violating the Pharmacy Law: Unlawful Possession)

13. Respondent is subject to disciplinary action under section 4301, subdivision (o), in conjunction with section 4060, subdivision (a), in that respondent violated the California Pharmacy Law (Bus. and Prof. Code § 4000 et seq.) by unlawfully possessing a controlled substance without a prescription. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully herein.

THIRD CAUSE FOR DISCIPLINE

(Violating the Pharmacy Law: Unlawful Furnishing)

14. Respondent is subject to disciplinary action under section 4301, subdivision (o), in conjunction with section 4059, subdivision (a), in that respondent violated the California Pharmacy Law (Bus. and Prof. Code § 4000 et seq.) by unlawfully furnishing a controlled substance without a prescription. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Dishonesty/Acts of Moral Turpitude)

15. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that Respondent engaged in acts involving moral turpitude, dishonesty, fraud, deceit and/or corruption. Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully herein.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Making False Pharmacy Records)

16. Respondent is subject to disciplinary action under section 4301, subdivision (g), in that Respondent knowingly created and/or caused to be created pharmacy records and documents that falsely represented the existence of a state of facts. Complainant refers to and by this

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1 reference incorporates the allegations set forth above in paragraph 12, subparagraphs a and b,
2 inclusive, as though set forth fully herein.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Violation of Drug Statutes)**

5 17. Respondent is subject to disciplinary action under section 4301, subdivision (j), in
6 that Respondent violated state and federal laws regulating controlled substances and dangerous
7 drugs. Complainant refers to and by this reference incorporates the allegations set forth above in
8 paragraph 12, subparagraphs a and b, inclusive, as though set forth fully herein.

9 **PRAYER**

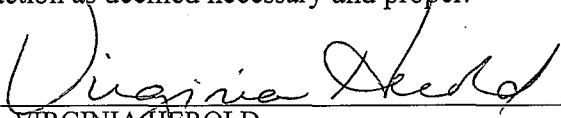
10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

12 1. Revoking or suspending Pharmacy Technician License No. TCH 30829, issued to
13 Jorge Arturo Fausto;

14 2. Ordering Jorge Arturo Fausto to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to section 125.3; and

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

17 DATED: 1/25/12

18 
19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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