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

11 In the Matter of the Accusation Against:

Case No. 4464

12 **ANISH GORE**
13 **2644 E. Denise Avenue**
Orange, CA 92867

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 85422**

16 Respondent.

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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 August 13, 2008, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 85422 to Anish Gore (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on November 30, 2013, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or
6 revoked.”

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

11 **STATUTORY AND REGULATORY PROVISIONS**

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate
14 the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation
18 furnished by the applicant or licensee.

19 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
20 revoke a license on the ground that the licensee has been convicted of a crime substantially
21 related to the qualifications, functions, or duties of the business or profession for which the
22 license was issued.

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1 8. Section 492 of the Code states:

2 Notwithstanding any other provision of law, successful completion of any
3 diversion program under the Penal Code, or successful completion of an alcohol and
4 drug problem assessment program under Article 5 (commencing with section
5 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
6 agency established under Division 2 ([Healing Arts] commencing with Section 500)
7 of this code, or any initiative act referred to in that division, from taking disciplinary
8 action against a licensee or from denying a license for professional misconduct,
9 notwithstanding that evidence of that misconduct may be recorded in a record
10 pertaining to an arrest.

11 This section shall not be construed to apply to any drug diversion program
12 operated by any agency established under Division 2 (commencing with Section 500)
13 of this code, or any initiative act referred to in that division.

14 9. Section 493 of the Code states:

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

26 As used in this section, "license" includes "certificate," "permit,"
27 "authority," and "registration."

28 10. Section 4301 of the Code states:

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

....

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

....

(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.

1 11. Section 4022 of the Code states

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
3 self-use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
5 without prescription," "Rx only," or words of similar import.

6 (b) Any device that bears the statement: "Caution: federal law restricts this
7 device to sale by or on the order of a _____," "Rx only," or words of similar
8 import, the blank to be filled in with the designation of the practitioner licensed to use
9 or order use of the device.

10 (c) Any other drug or device that by federal or state law can be lawfully
11 dispensed only on prescription or furnished pursuant to Section 4006.

12 12. Section 4060 of the Code states:

13 No person shall possess any controlled substance, except that furnished to a
14 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or
15 furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to
16 Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician
17 assistant pursuant to Section 3502.1. This section shall not apply to the possession of
18 any controlled substance by a manufacturer, wholesaler, pharmacy, physician,
19 podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or
20 physician assistant, when in stock in containers correctly labeled with the name and
21 address of the supplier or producer.

22 Nothing in this section authorizes a certified nurse-midwife, a nurse
23 practitioner, or a physician assistant to order his or her own stock of dangerous drugs
24 and devices.

25 13. Title 16, California Code of Regulations, section 1769, states:

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27 (b) When considering the suspension or revocation of a facility or a personal
28 license on the ground that the licensee or the registrant has been convicted of a crime,
the board, in evaluating the rehabilitation of such person and his present eligibility for
a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

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1 14. Title 16, California Code of Regulations, section 1770, states:

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

6 **COST RECOVERY**

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

11 **DRUGS**

12 16. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code
13 section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business and Professions
14 Code section 4022.

15 17. Diazepam is a Schedule IV controlled substance pursuant to Health and Safety Code
16 section 11057, subdivision (d)(9), and a dangerous drug pursuant to Business and Professions
17 Code section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct – Illegal Possession of Controlled Substance – Alprazolam and
20 Diazepam – on November 30, 2011)**

21 18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
22 (o) of the Code in that Respondent was in possession of the controlled substances and dangerous
23 drugs Alprazolam and Diazepam without a prescription in violation of section 4060 of the Code.
24 The circumstances are as follows:

25 19. On November 30, 2011, at approximately 4:00 p.m., Los Angeles Police Department
26 Officers observed a vehicle driving eastbound on Temple Avenue with a front tinted window and
27 without a front license plate, in violation of the Vehicle Code. Officers performed a traffic stop
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1 of the vehicle and, upon approaching the vehicle, smelled a strong odor of marijuana coming
2 from within the vehicle. Three occupants of the vehicle were detained pending a narcotics
3 investigation. Upon searching the vehicle, officers found numerous plastic containers and
4 marijuana pipes, and plastic baggies containing controlled substances, which Respondent claimed
5 ownership of. Respondent was arrested for unlawful possession of controlled substances and
6 possession of marijuana for sale, and booked at the Los Angeles County Jail.

7 20. As a result of the arrest, on or about April 9, 2012, in a criminal proceeding entitled
8 *People of the State of California vs. Anish Gore*, in the Superior Court of California, County of
9 Los Angeles, in Case Number 2PK00728, Respondent pled guilty to violating Health and Safety
10 Code section 11377 (possession of controlled substances), a misdemeanor, to wit: Alprazolam
11 and Diazepam. As a result of a plea agreement, one count of violating Health and Safety Code
12 section 11377 was dismissed.

13 21. The Court deferred entry of judgment for 24 months and placed Respondent on drug
14 diversion pursuant to Penal Code section 1000. The Court ordered Respondent to pay various
15 fines and fees, cooperate with a program in a plan for drug education, not use or possess
16 narcotics, dangerous or restricted drugs without a prescription, not associate with drug users or
17 sellers, submit person and property to search and seizure, and not commit similar offense during
18 probation period.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 85422,
23 issued to Anish Gore;

24 2. Ordering Anish Gore to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

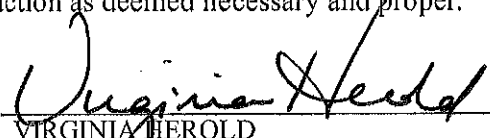
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3. Taking such other and further action as deemed necessary and proper.

DATED: 5/9/13



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

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