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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5799

11 **OLAJID OLUSOLA GBENLE**
12 **33426 13th Street**
13 **Union City, CA 94587**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 75623**

15 Respondent.

16
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 May 4, 2007, the Board issued Pharmacy Technician License No. TCH
22 75623 to Olajid Olusola Gbenle (Respondent). The License was in full force and effect at all
23 times relevant to the charges brought herein and will expire on March 31, 2017, unless renewed.

24 JURISDICTION

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

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

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

8 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
9 drug or dangerous device except upon the prescription of an authorized prescriber.

10 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
11 controlled substance, except that furnished upon a valid prescription/drug order.

12 11. Health and Safety Code section 11170 provides that no person shall prescribe,
13 administer, or furnish a controlled substance for himself or herself.

14 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
15 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
16 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
17 or subterfuge; or (2) by the concealment of a material fact.

18 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
19 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
20 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

21 COST RECOVERY

22 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation of the licensing
24 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

25 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

26 15. Section 4021 of the Code states:

27 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
28 11053) of Division 10 of the Health and Safety Code.”

1 16. Section 4022 of the Code states, in pertinent part:

2 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
3 except veterinary drugs that are labeled as such, and includes the following:

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

6 . . .

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

9 17. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for
10 compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III
11 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
12 drug as designated by Business and Professions Code section 4022. The varying compounds are
13 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

14 FACTUAL BACKGROUND

15 18. In or about January 2016, in a random drug screen performed in his workplace by his
16 pharmacy employer (Walgreens), Respondent tested positive for **marijuana, hydrocodone, and**
17 **hydromorphone**, all controlled substances. Respondent subsequently admitted:

- 18 • that on several occasions during the preceding year, he had stolen from Walgreens
19 pharmacy or pharmacies, and self-administered, controlled substances including at
20 least one hundred (100) tablets of **hydrocodone** with acetaminophen (**Norco**);
- 21 • that he had been diagnosed with a condition that caused back pain between two (2)
22 and three (3) years prior, and that he began to self-medicate with **Norco** by stealing
23 the medication from Walgreens while working as a technician;
- 24 • that he started with taking two (2) tablets of **Norco** per day and then gradually
25 increased to a more recent dosage of eight (8) to ten (10) tablets per day;
- 26 • that his diversion/theft of **Norco** had been going on since before October 2014;
- 27 • that he also started using medical **marijuana** in or about December 2015; and
- 28 • that he had developed a dependency on **Norco**.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

3 23. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
4 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
5 18 and 19 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
6 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

7
8 FIFTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

10 24. Respondent is subject to discipline under section 4301 of the Code in that
11 Respondent, as described in paragraphs 18 to 23 above, engaged in unprofessional conduct.

12
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Pharmacy issue a decision:

- 15 1. Revoking or suspending Pharmacy Technician License Number TCH 75623, issued to
16 Olajid Olusola Gbenle (Respondent);
- 17 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
18 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 19 3. Taking such other and further action as is deemed necessary and proper.

20
21 DATED: _____

4/21/16



22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

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