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

11 In the Matter of the Accusation Against:

12 **DANIEL ISIDRO IBARRA-VENTURA**
21909 Saticoy Street, #15
13 Canoga Park, CA 91304

14 Pharmacy Technician Registration
15 No. TCH 152937

16 Respondent.

Case No. 6009

A C C U S A T I O N

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 April 15, 2016, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 152937 to Daniel Isidro Ibarra-Ventura (Respondent). The
23 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
24 brought herein, expired on May 31, 2017, and has not been renewed.

25 **JURISDICTION**

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

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STATUTORY PROVISIONS

1
2 4. Section 492 states, in pertinent part:

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

11 5. Section 4060 provides in pertinent part, that no person shall possess any controlled
12 substance, except that furnished to a person upon the prescription of a physician, dentist,
13 podiatrist, optometrist, veterinarian, or other authorized prescriber.

14 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
15 subject to discipline, including suspension or revocation.

16 7. Section 4300.1 states:

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

22 8. Section 4301 states, in pertinent part:

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

26

27 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
28 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and

1 whether the act is a felony or misdemeanor or not.

2

3 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
4 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
5 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
6 to the extent that the use impairs the ability of the person to conduct with safety to the public the
7 practice authorized by the license.

8

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

11

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

16 **REGULATORY PROVISIONS**

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

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

24 **COST RECOVERY**

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

1 **CONTROLLED SUBSTANCE**

2 11. "Suboxone," is the brand name for Buprenorphine and Naloxone 8mg.-2 mg. It is a
3 Schedule III controlled substance as designated by the Controlled Substance Act (CSA) and is
4 categorized as a dangerous drug pursuant to section 4022.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Illegally Obtained or Possessed a Controlled Substance)**

7 12. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
8 section 4060, in that while assigned as a pharmacy technician extern at CVS #9850, Respondent
9 illegally obtained or possessed a controlled substance, as follows:

10 a. On or about June 20, 2016, during an investigation for embezzlement by the Los
11 Angeles Police Department, Respondent, by his own admission, admitted that he diverted (14)
12 Suboxone 8mg.-2mg. strips, (2) 50 cc syringes, and (1) 10 pack of needles to manage his heroin
13 addiction .

14 b. Subsequently, on July 11, 2016, Respondent pled nolo contendere to violating one
15 misdemeanor count of Penal Code section 484, subdivision (a)-490.2, subdivision (a) [petty
16 theft], one misdemeanor count of Penal Code section 508 [embezzlement], and one misdemeanor
17 count of Health and Safety Code section 11350 [possession of a controlled substance] in the
18 criminal proceeding entitled *The People of the State of California v. Daniel IbarraVentura*,
19 (Super. Ct. L.A. County, 2016, No. 6VW03064). The court deferred pronouncement of
20 sentencing for 12 months pending Respondent's completion of a drug diversion program,
21 pursuant to Penal Code section 1001.94.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Dangerous Use of a Controlled Substance)**

24 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
25 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent used a
26 controlled substance to the extent or in a manner as to be dangerous or injurious to himself,
27 another person, or the public, Complainant refers to, and by this reference incorporates, the
28 allegations set forth above in paragraph 12, as though set forth fully.

1 **THIRD CAUSE FOR DISCIPLINE**

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

3 14. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
4 that Respondent committed acts involving dishonesty, fraud, or deceit. Complainant refers to,
5 and by this reference incorporates, the allegations set forth above in paragraphs 12 and 13,
6 inclusive, as though set forth fully.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Violating Provisions of the Pharmacy Act)**

9 15. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
10 that Respondent violated provisions of the Pharmacy Act. Complainant refers to, and by this
11 reference incorporates, the allegations set forth above in paragraphs 12 through 14, as though set
12 forth fully.

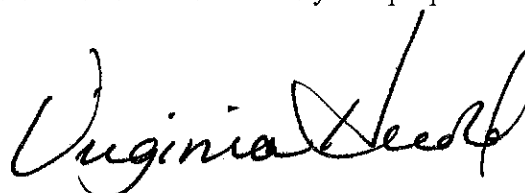
13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration No. TCH 152937, issued
- 17 to Daniel Isidro Ibarra-Ventura;
- 18 2. Ordering Daniel Isidro Ibarra-Ventura to pay the Board of Pharmacy the reasonable
- 19 costs of the investigation and enforcement of this case, pursuant to Business and Professions
- 20 Code section 125.3; and,
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: _____

7/17/17



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

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