

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

In the Matter of the Accusation Against:

Case No. 3314

FILIMON M. LOPEZ
29757 Niguel Road, Apt. H
Laguna Niguel, CA 92677

Pharmacy Technician Registration No. TCH
35419

Respondent.

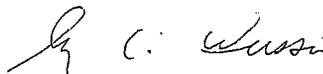
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 17, 2011.

It is so ORDERED on January 18, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DIANE DE KERVOR
Deputy Attorney General
4 State Bar No. 174721
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Attorneys for Complainant

8
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

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15 **Pharmacy Technician Registration No. TCH**
16 **35419**

OAH No. 2010031225

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

Respondent.

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
19 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
20 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

21 PARTIES

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Edmund
24 G. Brown Jr., Attorney General of the State of California, by Diane de Kervor, Deputy Attorney
25 General.

26 2. Respondent Filimon M. Lopez (Respondent) is represented in this proceeding by
27 attorney Herbert L. Weinberg, whose address is: McGuire Woods, 1800 Century Park East, 8th
28 Floor, Los Angeles, CA 90067.

1 year shall be considered a violation of probation. Respondent shall not resume working as a
2 pharmacy technician until notified by the board.

3 During suspension, respondent shall not enter any pharmacy area or any portion of any
4 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
5 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
6 devices or controlled substances are maintained. Respondent shall not do any act involving drug
7 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
8 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
9 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
10 substances. Respondent shall not resume work until notified by the board.

11 Subject to the above restrictions, respondent may continue to own or hold an interest in any
12 licensed premises by the board in which he holds an interest at the time this decision becomes
13 effective unless otherwise specified in this order.

14 Failure to comply with this suspension shall be considered a violation of probation.

15 3. Obey All Laws

16 Respondent shall obey all state and federal laws and regulations.

17 Respondent shall report any of the following occurrences to the board, in writing, within
18 seventy-two (72) hours of such occurrence:

19 a. an arrest or issuance of a criminal complaint for violation of any provision of the
20 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
21 laws

22 b. a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
23 criminal complaint, information or indictment

24 c. a conviction of any crime

25 d. discipline, citation, or other administrative action filed by any state or federal agency
26 which involves respondent's pharmacy technician license or which is related to the practice of
27 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any
28 drug, device or controlled substance.

1 Failure to timely report any such occurrence shall be considered a violation of probation.

2 **4. Report to the Board**

3 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
4 designee. The report shall be made either in person or in writing, as directed. Among other
5 requirements, respondent shall state in each report under penalty of perjury whether there has
6 been compliance with all the terms and conditions of probation. Failure to submit timely reports
7 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
8 in submission of reports as directed may be added to the total period of probation. Moreover, if
9 the final probation report is not made as directed, probation shall be automatically extended until
10 such time as the final report is made and accepted by the board.

11 **5. Interview with the Board**

12 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
13 with the board or its designee, at such intervals and locations as are determined by the board or its
14 designee. Failure to appear for any scheduled interview without prior notification to board staff,
15 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
16 the period of probation, shall be considered a violation of probation.

17 **6. Cooperate with Board Staff**

18 Respondent shall cooperate with the board's inspection program and with the board's
19 monitoring and investigation of respondent's compliance with the terms and conditions of
20 his probation. Failure to cooperate shall be considered a violation of probation.

21 **7. Notice to Employers**

22 During the period of probation, respondent shall notify all present and prospective
23 employers of the decision in case number 3314 and the terms, conditions and restrictions imposed
24 on respondent by the decision, as follows:

25 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
26 respondent undertaking any new employment, respondent shall cause his direct supervisor,
27 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
28 tenure of employment) and owner to report to the board in writing acknowledging that the listed

1 individual(s) has/have read the decision in case number 3314 and the terms and conditions
2 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or
3 supervisor(s) submit timely acknowledgement(s) to the board.

4 If respondent works for or is employed by or through a pharmacy employment service,
5 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy
6 of the terms and conditions of the decision in case number 3314 in advance of the respondent
7 commencing work at each pharmacy. A record of this notification must be provided to the board
8 upon request.

9 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
10 (15) days of respondent undertaking any new employment by or through a pharmacy employment
11 service, respondent shall cause his direct supervisor with the pharmacy employment service to
12 report to the board in writing acknowledging that he has read the decision in case number 3314
13 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
14 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

15 Failure to timely notify present or prospective employer(s) or to cause that/those
16 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
17 probation.

18 "Employment" within the meaning of this provision shall include any full-time, part-time,
19 temporary or relief service or pharmacy management service as a pharmacy technician or in any
20 position for which a pharmacy technician license is a requirement or criterion for employment,
21 whether the respondent is considered an employee, independent contractor or volunteer.

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the
24 board its costs of investigation and prosecution in the amount of \$7,921.50. Respondent shall
25 make said payments as approved by the Board. There shall be no deviation from this schedule
26 absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s)
27 as directed shall be considered a violation of probation.

28

1 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
2 reimburse the board its costs of investigation and prosecution.

3 **9. Probation Monitoring Costs**

4 Respondent shall pay any costs associated with probation monitoring as determined by the
5 board each and every year of probation. Such costs shall be payable to the board on a schedule as
6 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
7 be considered a violation of probation.

8 **10. Status of License**

9 Respondent shall, at all times while on probation, maintain an active, current pharmacy
10 technician license with the board, including any period during which suspension or probation is
11 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

12 If respondent's pharmacy technician license expires or is cancelled by operation of law or
13 otherwise at any time during the period of probation, including any extensions thereof due to
14 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
15 terms and conditions of this probation not previously satisfied.

16 **11. License Surrender While on Probation/Suspension**

17 Following the effective date of this decision, should respondent cease work due to
18 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
19 respondent may tender his pharmacy technician license to the board for surrender. The board or
20 its designee shall have the discretion whether to grant the request for surrender or take any other
21 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
22 license, respondent will no longer be subject to the terms and conditions of probation. This
23 surrender constitutes a record of discipline and shall become a part of the respondent's license
24 history with the board.

25 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician
26 license to the board within ten (10) days of notification by the board that the surrender is
27 accepted. Respondent may not reapply for any license, permit, or registration from the board for
28 three (3) years from the effective date of the surrender. Respondent shall meet all requirements

1 applicable to the license sought as of the date the application for that license is submitted to the
2 board.

3 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
4 **Employment**

5 Respondent shall notify the board in writing within ten (10) days of any change of
6 employment. Said notification shall include the reasons for leaving, the address of the new
7 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
8 shall further notify the board in writing within ten (10) days of a change in name, residence
9 address and mailing address, or phone number.

10 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
11 phone number(s) shall be considered a violation of probation.

12 **13. Tolling of Probation**

13 Except during periods of suspension, respondent shall, at all times while on probation, be
14 employed as a pharmacy technician in California for a minimum of ten hours per calendar month.
15 Any month during which this minimum is not met shall toll the period of probation, i.e., the
16 period of probation shall be extended by one month for each month during which this minimum is
17 not met. During any such period of tolling of probation, respondent must nonetheless comply
18 with all terms and conditions of probation.

19 Should respondent, regardless of residency, for any reason (including vacation) cease
20 working as a pharmacy technician for a minimum of ten hours per calendar month in California,
21 respondent must notify the board in writing within ten (10) days of cessation of work and must
22 further notify the board in writing within ten (10) days of the resumption of the work. Any failure
23 to provide such notification(s) shall be considered a violation of probation.

24 It is a violation of probation for respondent's probation to remain tolled pursuant to the
25 provisions of this condition for a total period, counting consecutive and non-consecutive months,
26 exceeding thirty-six (36) months.

27 "Cessation of work" means calendar month during which respondent is not working for at
28 least ten hours as a pharmacy technician, as defined in Business and Professions Code section

1 4115. "Resumption of work" means any calendar month during which respondent is working as a
2 pharmacy technician for at least ten hours as a pharmacy technician as defined by Business and
3 Professions Code section 4115.

4 **14. Violation of Probation**

5 If a respondent has not complied with any term or condition of probation, the board shall
6 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
7 all terms and conditions have been satisfied or the board has taken other action as deemed
8 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
9 to impose the penalty that was stayed.

10 If respondent violates probation in any respect, the board, after giving respondent notice
11 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
12 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
13 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
14 a petition to revoke probation or an accusation is filed against respondent during probation, the
15 board shall have continuing jurisdiction, and the period of probation shall be automatically
16 extended until the petition to revoke probation or accusation is heard and decided.

17 **15. Completion of Probation**

18 Upon written notice by the board indicating successful completion of probation,
19 respondent's pharmacy technician license will be fully restored.

20 **16. No Ownership of Licensed Premises**

21 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
22 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
23 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
24 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
25 days following the effective date of this decision and shall immediately thereafter provide written
26 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
27 documentation thereof shall be considered a violation of probation.

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1 **17. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

2 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
3 attendance at a recognized and established substance abuse recovery support group in California,
4 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
5 or its designee. Respondent must attend at least one group meeting per week unless otherwise
6 directed by the board or its designee. Respondent shall continue regular attendance and submit
7 signed and dated documentation confirming attendance with each quarterly report for the duration
8 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
9 probation.

10 **18. Random Drug Screening**

11 Respondent, at his own expense, shall participate in random testing, including but not
12 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
13 screening program as directed by the board or its designee. Respondent may be required to
14 participate in testing for the entire probation period and the frequency of testing will be
15 determined by the board or its designee. At all times respondent shall fully cooperate with the
16 board or its designee, and shall, when directed, submit to such tests and samples for the detection
17 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
18 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
19 of probation. Upon request of the board or its designee, respondent shall provide documentation
20 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
21 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
22 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
23 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
24 shall be considered a violation of probation and shall result in the automatic suspension of work
25 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
26 board in writing.

27 During suspension, respondent shall not enter any pharmacy area or any portion of or any
28 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other

1 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
2 devices or controlled substances are maintained. Respondent shall not do any act involving drug
3 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
4 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
5 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
6 substances. Respondent shall not resume work until notified by the board.

7 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
8 Subject to the above restrictions, respondent may continue to own or hold an interest in any
9 licensed premises in which he holds an interest at the time this decision becomes effective unless
10 otherwise specified in this order.

11 Failure to comply with this suspension shall be considered a violation of probation.

12 **19. Work Site Monitor**

13 Within ten (10) days of the effective date of this decision, respondent shall identify a work
14 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
15 during working hours. Respondent shall be responsible for ensuring that the work site monitor
16 reports in writing to the board quarterly. Should the designated work site monitor determine at
17 any time during the probationary period that respondent has not maintained sobriety, he shall
18 notify the board immediately, either orally or in writing as directed. Should respondent change
19 employment, a new work site monitor must be designated, for prior approval by the board, within
20 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
21 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
22 considered a violation of probation.

23 **20. Notification of Departure**

24 Prior to leaving the probationary geographic area designated by the board or its designee for
25 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
26 writing of the dates of departure and return. Failure to comply with this provision shall be
27 considered a violation of probation.

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21. Abstain from Drugs and Alcohol Use

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

22. Tolling of Suspension

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of ten (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

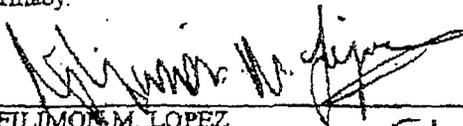
Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not return to work until notified by the board that the period of suspension has been satisfactorily completed.

ACCEPTANCE

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I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

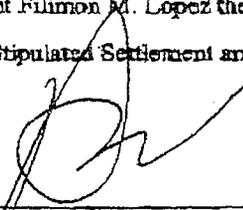
DATED: 09-03-2010



FILIMON M. LOPEZ
Respondent *FILIMON M LOPEZ*

I have read and fully discussed with Respondent Filimon M. Lopez the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/3/10



HERBERT L. WEINBERG
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: _____

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

DIANE DE KER VOR
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

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DATED: _____

FILIMON M. LOPEZ
Respondent

I have read and fully discussed with Respondent Filimon M. Lopez the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____

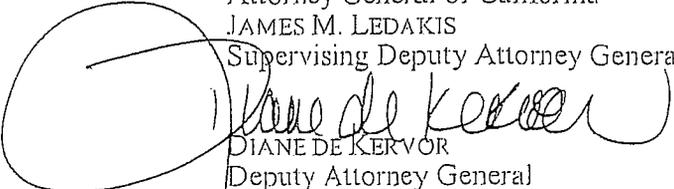
HERBERT L. WEINBERG
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: Sept 3, 2010

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

DIANE DE KERVOR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3314

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DIANE DE KERVOR, State Bar No. 174721
Deputy Attorney General
4 110 West "A" Street, Suite 1100
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6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2611
7 Facsimile: (619) 645-2061
8 Attorneys for Complainant

9
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BOARD OF PHARMACY
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12 In the Matter of the Accusation Against:

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13 FILIMON M. LOPEZ
29757 Niguel Road, Apt. H
14 Laguna Niguel, CA 92677

ACCUSATION

15 Pharmacy Technician Registration No. TCH
35419

16 Respondent.
17

18 Complainant alleges:

19 PARTIES

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

23 2. On or about December 11, 2000, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 35419 to Filimon M. Lopez (Respondent). The Pharmacy
25 Technician Registration will expire on May 31, 2010, unless renewed.

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JURISDICTION

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

4. Code section 118, subdivision (b), states, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Code section 482 states:
Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

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

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

6. Section 490 of the Code states, in pertinent part:
A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. . . .

7. Code section 493 states:
Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

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

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8. Section 4022 of the Code states

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

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

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

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

9. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

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

10. Section 4300 of the Code states that "(a) Every license issued may be suspended or revoked."

11. 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:

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

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

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

9 (k) The conviction of more than one misdemeanor or any felony involving
10 the use, consumption, or self-administration of any dangerous drug or alcoholic
11 beverage, or any combination of those substances.

12 (l) The conviction of a crime substantially related to the qualifications,
13 functions, and duties of a licensee under this chapter. The record of conviction of
14 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
15 United States Code regulating controlled substances or of a violation of the
16 statutes of this state regulating controlled substances or dangerous drugs shall be
17 conclusive evidence of unprofessional conduct. In all other cases, the record of
18 conviction shall be conclusive evidence only of the fact that the conviction
19 occurred. The board may inquire into the circumstances surrounding the
20 commission of the crime, in order to fix the degree of discipline or, in the case of
21 a conviction not involving controlled substances or dangerous drugs, to determine
22 if the conviction is of an offense substantially related to the qualifications,
23 functions, and duties of a licensee under this chapter. A plea or verdict of guilty
24 or a conviction following a plea of nolo contendere is deemed to be a conviction
25 within the meaning of this provision. . . .

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

12. California Code of Regulations, title 16, section 1769 states, in pertinent part:

(b) When considering the suspension or revocation of a facility or a
personal 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.

1 (5) Evidence, if any, of rehabilitation submitted by the licensee.
2

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

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

8 COST RECOVERY

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

13 DRUG

14 15. Clonazepam, generic name for Klonopin, is a Schedule IV controlled
15 substance under California Health and Safety Code section 11057(d)(7), a dangerous drug
16 pursuant to Business and Professions Code section 4022, and is used to treat seizures.

17 FIRST CAUSE FOR DISCIPLINE

18 (January 14, 2005 Criminal Convictions -
19 Driving Under the Influence on October 20, 2003)

20 16. Grounds exist to revoke Respondent's license pursuant to Code section
21 4300, section 4301, subdivisions (h), (k) and (l) as well as 490 and 493 for using alcoholic
22 beverages to an extent or in a manner as to be dangerous to himself or others and for multiple
23 criminal convictions involving the use of alcoholic beverages and that are substantially related to
24 the qualifications, functions, and duties of a Pharmacy Technician. On January 14, 2005, in a
25 case entitled *People vs. Filimon Martin Lopez* (Orange County Superior Court Case No.
26 03CM08936MA), Respondent was convicted by a plea of guilt to a violation of Vehicle Code
27 Sections 23152(a) (driving under the influence), a misdemeanor, and 23152(b) (driving under the
28 influence with a blood alcohol content of .08% or higher), a misdemeanor.

1 either item. Respondent was apprehended by the store's loss prevention officer and
2 subsequently the police. Respondent had no money or identification on his person when he went
3 into the store.

4 21. Respondent identified himself as "Martin Gomez" and admitted the theft to the
5 police. However, he told the officer that he had stolen the items to bring to a man who told him
6 he would pay him \$20.00 if he performed this very act. He also told the officer that he was an
7 illegal alien who just paid someone to smuggle him into the country. When questioned why he
8 had a Volkswagen car key on his person, Respondent told the officer he found it. The officer
9 went back to the store parking lot, located a Volkswagen, and ran the registration. By tracing the
10 driver's license back to Respondent, he was able to determine that Martin Gomez was really
11 Filimon Lopez.

12 22. On May 18, 2005, Respondent was sentenced to 10 days in jail, placed on
13 three years informal probation under certain terms and conditions, including an order to stay
14 away from the Ralphs store in Laguna Niguel, and to pay \$130.00 in fines and fees, and to pay
15 restitution to the store.

16 THIRD CAUSE FOR DISCIPLINE

17 (August 8, 2005 Criminal Convictions - Petty Theft and Possession of a Controlled
18 Substance Without a Prescription on May 14, 2005)

19 23. Grounds exist to revoke Respondent's license pursuant to Code section
20 4300, section 4301, subdivisions (f), (j), (l), and (o) as well as 490 and 493 for commission of an
21 act involving moral turpitude and dishonesty, criminal convictions that are substantially related
22 to the qualifications, functions, and duties of a Pharmacy Technician, and a violation of drug
23 laws. On August 8, 2005, in a case entitled *People vs. Filimon Martin Lopez* (Orange County
24 Superior Court Case No. 05sm02800), Respondent was convicted by a plea of guilt to a violation
25 of Penal Code section 484(A)-488 (petty theft), a misdemeanor, and Business and Professions
26 Code section 4060 (possess controlled substance without a prescription), a misdemeanor.

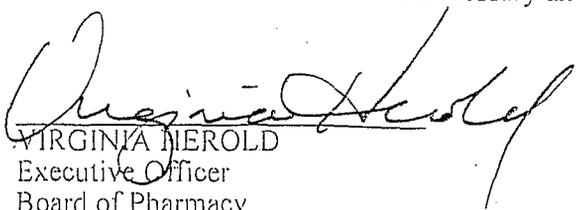
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C: Taking such other and further action as deemed necessary and proper.

DATED: 9/17/09



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