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

In the Matter of the Accusation Against:	Case No. 4364
CYNTHIA DAWN GOMEZ 232 Beverly Court King City, CA 93930 Intern Pharmacist Registration Number INT 21078 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 August 13, 2014.

It is so ORDERED on August 6, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STAN C. WEISSER
Board President

KAMALA D. HARRIS
Attorney General of California
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Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **CYNTHIA DAWN GOMEZ** **232 Beverly Court** **King City, California 93930** **Intern Pharmacist Registration Number INT 21078,** Respondent.	Case Number 4364 OAH Number 2013120773 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Complainant Virginia Herold is the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, and by Gregory Tuss, Deputy Attorney General.

2. Respondent Cynthia Dawn Gomez is represented in this proceeding by attorney Donald Brown, whose address is 3848 Carson Street, Suite 206; Torrance, California 90503.

3. On or about September 11, 2007, the Board issued Intern Pharmacist Registration Number INT 21078 to respondent. The intern pharmacist registration was in full force and effect

at all times relevant to the charges brought in Accusation Number 4364. The intern pharmacist registration expired on May 31, 2013, and has not been renewed.

JURISDICTION

4. Accusation Number 4364 was filed before the Board and is currently pending against respondent. The accusation and all other statutorily required documents were properly served on respondent on March 28, 2013. Respondent timely filed her notice of defense contesting the Accusation.

5. A copy of Accusation Number 4364 is attached as exhibit 1 and incorporated by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation Number 4364. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the accusation; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation Number 4364.

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10. Respondent agrees that her intern pharmacist registration is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by respondent or her counsel. By signing the stipulation, respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph; it shall be inadmissible in any legal action between the parties; and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures, shall have the same force and effect as the originals.

13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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DISCIPLINARY ORDER

IT IS ORDERED that Intern Pharmacist Registration Number INT 21078 issued to respondent Cynthia Dawn Gomez is reinstated contingent upon respondent reenrolling in a school of pharmacy recognized by the board to fulfill the education requirements of Business and Professions Code section 4200, subdivision (a), paragraphs (1) through (4), inclusive. If and when respondent's intern pharmacist registration is reinstated, it is immediately revoked. However, the revocation of the intern pharmacist registration is stayed and respondent is placed on probation for five (5) years subject to the following terms and conditions. Upon respondent's satisfaction of all probation terms and conditions required for the intern pharmacist registration and satisfaction of all statutory and regulatory requirements and conditions for issuance of a pharmacist license, respondent's intern pharmacist license will be cancelled and a pharmacist license will be issued to respondent. Respondent's pharmacist's license shall be immediately revoked. The revocation will be stayed, and respondent's pharmacist's license shall be placed on probation for the time remaining of the five years probation subject to the following terms and conditions:

1. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendre in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's intern pharmacist registration or which is related to the

practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance

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

2. **Report to the Board**

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

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of respondent's compliance with the terms and conditions of her probation. Failure to cooperate shall be considered a violation of probation.

5. **Continuing Education**

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

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6. **Notice to Employers**

During the period of probation, respondent shall notify all present and prospective employers of the decision in Case Number 4364 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in Case Number 4364, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the terms and conditions of the decision in Case Number 4364 in advance of respondent commencing work at each licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that the supervisor has read the decision in Case Number 4364 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any

position for which a pharmacist license is a requirement or criterion for employment, whether respondent is an employee, independent contractor or volunteer.

7. **No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant**

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the Board, nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. **Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, respondent shall pay to the Board its costs of investigation and prosecution in the amount of $6,002.00. Respondent shall make said payments pursuant to a payment plan approved by the Board or its designee, so long as full payment is made within fifty-four (54) months of the effective date of the decision.

There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to reimburse the Board its costs of investigation and prosecution.

9. **Probation Monitoring Costs**

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

10. **Status of License**

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

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

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

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

Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

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

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

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

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13. **Tolling of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of 40 hours per calendar month in California, respondent must notify the Board in writing within ten (10) days of the cessation of practice, and must further notify the Board in writing within ten (10) days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

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

"Cessation of practice" means any calendar month during which respondent is not practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

14. **Violation of Probation**

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

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that

was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

15. **Completion of Probation**

Upon written notice by the Board or its designee indicating successful completion of probation, respondent's license will be fully restored.

16. **Pharmacists Recovery Program (PRP)**

Within thirty (30) days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board or its designee. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete her current contract and any subsequent addendums with the PRP.

Failure to timely contact or enroll in the PRP, or successfully participate in and complete the treatment contract and/or any addendums, shall be considered a violation of probation.

Probation shall be automatically extended until respondent successfully completes the PRP. Any person terminated from the PRP program shall be automatically suspended by the Board. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the

licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

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

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

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

17. **Random Drug Screening**

Respondent, at her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the Board or its designee. At all times, respondent shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the Board or its designee, respondent shall provide

documentation from a licensed practitioner that the prescription for a detected 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. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension. respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

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

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

18. **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 she 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.

19. **Prescription Coordination and Monitoring of Prescription Use**

Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board for its prior approval the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's history with the use of alcohol, controlled substances, and/or dangerous drugs, and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the Board's accusation and decision. A record of this notification must be provided to the Board upon request. Respondent shall sign a release authorizing the practitioner to communicate with the Board about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the Board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time-limited use of any such substances. The Board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the Board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the Board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the Board for approval, or to ensure the required reporting on the quarterly reports, shall be considered a

violation of probation.

If at any time an approved practitioner determines that respondent is unable to practice safely or independently as a pharmacist, the practitioner shall notify the Board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the Board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the Board that practice may be resumed.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the Board; or any manufacturer; or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board; or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

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

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

20. **Supervised Practice**

During the period of probation, respondent shall practice only under the supervision of a licensed pharmacist not on probation with the Board. Upon and after the effective date of this decision, respondent shall not practice pharmacy and her license shall be automatically suspended until a supervisor is approved by the Board or its designee. The supervision shall be, as required by the Board or its designee, either:

Continuous – At least 75% of a work week

Substantial – At least 50% of a work week

Partial – At least 25% of a work week

~~Daily Review – Supervisor's review of probationer's daily activities within 24 hours~~

Within thirty (30) days of the effective date of this decision, respondent shall have her supervisor submit notification to the Board in writing stating that the supervisor has read the decision in Case Number 4364 and is familiar with the required level of supervision as determined by the Board or its designee. It shall be the respondent's responsibility to ensure that her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the Board shall be considered a violation of probation.

If respondent changes employment, it shall be the respondent's responsibility to ensure that her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the Board. Respondent shall have her new supervisor, within fifteen (15) days after employment commences, submit notification to the Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in Case Number 4364 and is familiar with the level of supervision as determined by the Board. Respondent shall not practice pharmacy and her license shall be automatically suspended until the Board or its designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the Board shall be considered a violation of probation.

Within ten (10) days of leaving employment, respondent shall notify the Board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board; or any manufacturer; or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board; or have access to or control the ordering, manufacturing or dispensing of dangerous drugs

and controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

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

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

21. **No Supervision of Ancillary Personnel**

During the period of probation, respondent shall not supervise any ancillary personnel, including, but not limited to, pharmacy technicians or designated representatives in any entity licensed by the Board.

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

22. **No Ownership of Licensed Premises**

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

23. **Ethics Course**

Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the Board or its designee. Failure to initiate the course during the first year of probation, and complete it within the second year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the Board or its designee within five

days after completing the course.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Donald Brown. I understand the stipulation and the effect it will have on my intern pharmacist 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: 6/26/2014

CYNTHIA DAWN GOMEZ
Respondent

I have read and fully discussed with respondent Cynthia Dawn Gomez the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: JUL 14 2014

Donald Brown
Attorney for Respondent

ENDORSEMENT

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

Dated: 7-14-14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

GREGORY TUSS
Deputy Attorney General
Attorneys for Complainant

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days after completing the course.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Donald Brown. I understand the stipulation and the effect it will have on my intern pharmacist 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: _____ _____
CYNTHIA DAWN GOMEZ
Respondent

I have read and fully discussed with respondent Cynthia Dawn Gomez the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: _____ _____
Donald Brown
Attorney for Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

GREGORY TUSS
Deputy Attorney General
Attorneys for Complainant

SF2012402249

Exhibit 1

Accusation Number 4364

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Supervising Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **CYNTHIA DAWN GOMEZ** **7531 Poppy Lane** **Fontana, California 92336** **Intern Pharmacist License Number** **INT 21078** Respondent.	Case Number 4364 **ACCUSATION**

Complainant Virginia Herold alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

2. On or about September 11, 2007, the Board issued Intern Pharmacist License Number INT 21078 to respondent Cynthia Dawn Gomez. This intern pharmacist license was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on May 31, 2013, unless renewed.

JURISDICTION

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

4. Section 118, subdivision (b), provides:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute of continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground."

5. Section 4011 provides:

"The board shall administer and enforce this chapter and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

6. Section 4300 provides, in pertinent part:

"(a) Every license issued may be suspended or revoked."

7. Section 4304 provides:

"The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code."

STATUTORY PROVISIONS

8. Section 4060 provides, in pertinent part:

"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, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2."

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9. Section 4301 provides, in pertinent part:

"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.

. . .

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

. . .

"(j) The violation of any of the statutes of this state, of any other 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 or by any other state or federal regulatory agency."

10. Section 4327 provides:

"Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

11. Health and Safety Code section 11055 provides, in pertinent part:

"(a) The controlled substances listed in this section are included in Schedule II.

. . .

"(d) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

"(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.

. . .

"(3) Dimethylamphetamine (N,N-dimethylamphetamine), its salts, isomers, and salts of its isomers.

. . .

"(6) Methylphenidate."

12. Health and Safety Code section 11170 provides:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

COST RECOVERY

13. Section 125.3 provides, in pertinent part:

"(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceedings, the administrative law judge may direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

DRUGS

14. "Amphetamine" is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1).

15. "Dextroamphetamine," also known by the brand names "Dexedrine" and "Dextrostat," is used to treat attention-deficit hyperactivity disorder and narcolepsy. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1), and a dangerous drug within the meaning of Business and Professions Code section 4022.

16. "Dextroamphetamine-Amphetamine ER" and "amphetamine salts," also known by the brand name "Adderall," is used to treat attention-deficit hyperactivity disorder and narcolepsy. It is a Schedule II controlled substance pursuant to Health and Safety Code section

11055, subdivision (d)(1), and a dangerous drug within the meaning of Business and Professions Code section 4022.

17. "Dimethylphenidate," also known by the brand name "Focalin," is used to treat attention-deficit hyperactivity disorder. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(3), and a dangerous drug within the meaning of Business and Professions Code section 4022.

18. "Lisdexamfetamine," also known by the brand name "Vyvase," is used to treat attention-deficit hyperactivity disorder. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1), and a dangerous drug within the meaning of Business and Professions Code section 4022.

19. "Methylphenidate," also known by the brand names "Concerta," "Methylin," "Metadate," and "Ritalin," is used to treat attention-deficit hyperactivity disorder. It is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(6), and a dangerous drug within the meaning of Business and Professions Code section 4022.

FACTUAL BACKGROUND

20. On or about July 14, 2011, respondent began as a pharmacist intern at Bertelli's Health Mart Pharmacy #3 in King City, California. On or about July 20, 2011, a pharmacy technician found a manufacturer's bottle of Dextroamphetamine in the storeroom between two binders of pharmacy reports. The bottle contained different pills of Dextroamphetamine, Methylphenidate, Dimethylphenidate, and amphetamine salts. The pharmacy technician reported the bottle to the pharmacist in charge (PIC). While the pharmacy technician and the PIC were investigating the bottle in the storeroom, respondent left the work she was assigned at the pharmacy counter and joined them in the storeroom. She appeared interested in their investigation The PIC sent respondent back to her work.

21. The PIC telephoned another staff pharmacist to ask whether she knew of any problems with medications. That staff pharmacist said that respondent sent her a text message on or about July 14, 2011, stating that she accidentally took home a manufacturer's stock bottle of drugs. The staff pharmacist at the time told respondent to return the drugs the next day. That

next day, another pharmacy technician reported to the staff pharmacist that she saw a manufacturer's bottle of Lisdexamfetamine in respondent's purse. The staff pharmacist assumed that this bottle was the drugs that respondent said that she had accidentally taken home.

22. After the Dextroamphetamine bottle was found in the storeroom and the PIC was informed of respondent taking drugs home, he asked her to submit to drug testing. Respondent agreed. The initial lab results of respondent's urine sample taken on July 20, 2011, were inconclusive; the lab said it appeared that respondent diluted the sample with toilet water because it was the incorrect color and temperature. The lab sent the sample for additional testing.

23. The PIC suspended respondent pending the test results. Respondent told the PIC that she did not tamper with her urine sample. When the PIC asked respondent about the Lisdexamfetamine that was seen in her purse (which he assumed was the drugs that respondent said that she had accidentally taken home and was returning), respondent denied taking Lisdexamfetamine home. Respondent said she took home a NSAID (non-steroidal anti-inflammatory drug). Respondent agreed to another drug test, but refused to take the test with a witness present.

24. On or about July 29, 2013, the lab's additional testing determined that respondent's urine sample tested positive for amphetamines. A Controlled Substance Utilization Review and Evaluation System (CURES) report showed no record of respondent having received an amphetamine-related medication during the time of the test.

25. The PIC inventoried the pharmacy's Schedule II controlled substances and found the following losses that occurred sometime between July 14 and July 20, 2011:

- 50 20 mg capsules Lisdexamfetamine
- 8 20 mg tablets Dimethylphenidate
- 11 25 mg capsules Dextroamphetamine-Amphetamine ER
- 7 10 mg tablets amphetamine salts
- 104 10 mg tablets Dextroamphetamine
- 6 36 mg tablets Methylphenidate
- 8 20 mg tablets Methylphenidate

• 13 40 mg capsules Methylphenidate

26. On or about July 22, 2011, respondent was interviewed by the police. She stated that she could not remember what drugs she accidentally took home on July 14, but believed they were an anti-inflammatory medication. The officer asked about the Lisdexamfetamine in respondent's purse. At first she denied having accidentally taken it home. Respondent then said that it was possible that she accidentally took home Lisdexamfetamine and not a NSAID. She also stated that her urine sample became contaminated when she dropped it in the toilet. She did not take a second drug test at the time because she could not urinate any more. She said she had not used amphetamines and that her only addiction was to alcohol.

27. On or about November 11, 2011, respondent was admitted to a residential treatment program for alcohol dependency.

28. On or about June 19, 2012, the Board's investigator interviewed respondent. Respondent again stated that her urine sample became contaminated when she dropped it in the toilet. She refused to take a second drug test because she did not want to work for people who did not trust her. She denied taking any drugs from the pharmacy. She said she was on medication when she was working at the pharmacy but refused to state what those medications were.

29. When the investigator confronted respondent with her positive drug test, respondent admitted to taking amphetamines a few days before the drug test. She said they were given to her by a friend because respondent was feeling tired. Even though the inventory showed Lisdexamfetamine missing from the pharmacy, respondent maintained that she returned the Lisdexamfetamine that was found in her purse. She again denied taking any drugs from the pharmacy.

CAUSES FOR DISCIPLINE

FIRST CAUSE FOR DISCIPLINE
Unprofessional Conduct – Act of Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption
Bus. & Prof. Code, § 4301, subd. (f)

29. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if fully set forth.

30. Respondent has subjected her intern pharmacist license to disciplinary action under section 4301, subdivision (f), for the unprofessional conduct of committing an act of moral turpitude, dishonesty, fraud, deceit, or corruption. As set forth in paragraphs 20-29 above, respondent possessed Lisdexamfetamine without a prescription or any authorization from the pharmacy.

SECOND CAUSE FOR DISCIPLINE
Unprofessional Conduct – Possession of Controlled Substance
Bus. & Prof. Code, §§ 4060, 4301, subds. (j) & (o)

31. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if fully set forth.

32. Respondent has subjected her intern pharmacist license to disciplinary action under sections 4060 and 4301, subdivisions (j) and (o), for the unprofessional conduct of possession of a controlled substance. As set forth in paragraphs 20-29 above, respondent possessed Lisdexamfetamine without a prescription or any authorization from the pharmacy.

THIRD CAUSE FOR DISCIPLINE
Unprofessional Conduct – Possession of Controlled Substance
Bus. & Prof. Code, §§ 4060, 4301, subds. (j) & (o)

33. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if fully set forth.

34. Respondent has subjected her intern pharmacist license to disciplinary action under sections 4060 and 4301, subdivisions (j) and (o), for the unprofessional conduct of possession of a controlled substance. As set forth in paragraphs 20-29 above, respondent tested positive for amphetamines and admitted taking amphetamines that were given to her by a friend.

FOURTH CAUSE FOR DISCIPLINE
Unprofessional Conduct – Self-Administration of a Controlled Substance
Bus. & Prof. Code, § 4301, subd. (h)

35. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if fully set forth.

36. Respondent has subjected her intern pharmacist license to disciplinary action under section 4301, subdivisions (h), for the unprofessional conduct of self-administration of a

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controlled substance. As set forth in paragraphs 20-29 above, respondent tested positive for amphetamines and admitted taking amphetamines that were given to her by a friend.

~~FIFTH CAUSE FOR DISCIPLINE~~
Unprofessional Conduct – Self-Administration of a Controlled Substance
Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11170

37. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if fully set forth.

38. Respondent has subjected her intern pharmacist license to disciplinary action under Business and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11170, for the unprofessional conduct of self-administration of a controlled substance. As set forth in paragraphs 20-29 above, respondent tested positive for amphetamines and admitted taking amphetamines that were given to her by a friend.

SIXTH CAUSE FOR DISCIPLINE
Unprofessional Conduct – Under the Influence While on Duty
Bus. & Prof. Code, §§ 4301, subds. (j) & (o), 4327

39. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if fully set forth.

40. Respondent has subjected her intern pharmacist license to disciplinary action under Business and Professions Code sections 4301, subdivisions (h) and (j), and 4327, for the unprofessional conduct of being under the influence while on duty as a pharmacist intern. As set forth in paragraphs 20-29 above, respondent tested positive for amphetamines when respondent was at work and admitted taking amphetamines a few days before the test.

SEVENTH CAUSE FOR DISCIPLINE
Unprofessional Conduct – Use of Alcoholic Beverages
Bus. & Prof. Code, § 4301, subd. (h)

41. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if fully set forth.

42. Respondent has subjected her intern pharmacist license to disciplinary action under section 4301, subdivisions (h), for the unprofessional conduct of use of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself, to any other person, to the public, or to the extent that the use impaired her ability to conduct with safety to the public the practice of

a pharmacist intern. As set forth in paragraphs 20-29 above, respondent admitted that she had an addiction to alcohol and went to a residential treatment program for alcohol dependency. Respondent's alcohol use was to an extent or in a manner as to be dangerous or injurious to herself, to any other person, to the public, or to the extent that the use impaired her to conduct with safety to the public the practice of a pharmacist intern.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Intern Pharmacist License Number INT 21078 issued to Cynthia Dawn Gomez;

2. Ordering Cynthia Dawn Gomez to pay the Board the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and

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

DATED: 3/21/13

Virginia Herold

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

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