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

In the Matter of the Accusation Against:

Case No. 4730

**MICHELLE GORDON
27816 Crowne Point Drive
Salinas, CA 93908
Pharmacy Technician Registration No. TCH
89567**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about October 3, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4730 against Michelle Gordon (Respondent) before the Board of Pharmacy. (Accusation attached as exhibit A.)

2. On or about April 14, 2009, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 89567 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4730 and will expire on May 31, 2014, unless renewed.

3. On or about January 13, 2014, Respondent was served by Certified Mail copies of the Accusation No. 4730, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's

1 address of record which, pursuant to Business and Professions Code section 4100, is required to
2 be reported and maintained with the Board. Respondent's address of record was and is:

3 Michelle Gordon
4 27816 Crowne Point Drive
5 Salinas, CA 93908.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124.

9 5. On or about January 29, 2014, the aforementioned documents were delivered to
10 Respondent's address of record, as set forth in paragraph 3, above.

11 6. Government Code section 11506 states, in pertinent part:

12 (c) The respondent shall be entitled to a hearing on the merits if the respondent
13 files a notice of defense, and the notice shall be deemed a specific denial of all parts
14 of the accusation not expressly admitted. Failure to file a notice of defense shall
15 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
16 may nevertheless grant a hearing.

17 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
18 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 4730.

19 8. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 9. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Accusation No. 4730, finds that
the charges and allegations in Accusation No. 4730, are separately and severally, found to be true
and correct by clear and convincing evidence.

10 Taking official notice of its own internal records, pursuant to Business and
11 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation

1 and Enforcement is \$6,087.00 as of March 12, 2014.

2 **DETERMINATION OF ISSUES**

3 1. Based on the foregoing findings of fact, Respondent Michelle Gordon has subjected
4 her Pharmacy Technician Registration No. TCH 89567 to discipline.

5 2. The agency has jurisdiction to adjudicate this case by default.

6 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
7 Registration based upon the following violations alleged in the Accusation which are supported
8 by the evidence contained in the Default Decision Evidence Packet in this case:

9 a. Respondent's license is subject to revocation pursuant to Business and Professions
10 Code section 4301, subdivision (f) in that without authorization and in violation of the law, she
11 obtained and possessed controlled substances and/or dangerous drugs as follows:

12 1. Between April of 2012 until June 15, 2012, while employed as a pharmacy
13 technician at CVS Pharmacy #9802 in Monterey, California, Respondent admitted to stealing for
14 her personal use approximately 210 tablets of Hydrocodone, 7 tablets of Suboxone, and 15 tablets
15 of Soma from the pharmacy.

16 2. Between October 12, 2011 and February 10, 2012, while employed at Dr.
17 Fisher's office in San Jose, California, Respondent admitted to calling in fraudulent prescriptions
18 and obtained 60 dosage units of Diazepam (RX242670) and 120 dosage units of Lorazepam
19 (RX235945 and RX249922) from CVS Pharmacy 9808.

20 3. Between August 2011 and February 2012, while employed at Dr. Fisher's
21 office in San Jose, California, Respondent admitted to obtaining 60 dosage units of
22 Hydrocodone/Acetaminophen (RX4409736 and RX4409785) and 180 dosage units of
23 Alprazolam (RX4410465 and RX4411076) from Target Store #T-1927, after "Rachel" and/or
24 "Michelle" called in fraudulent prescriptions.

25 4. In November, 2011, while employed at Dr. Fisher's office in San Jose,
26 California, Respondent admitted to obtaining 60 dosage units of Diazepam (RX4607744) from
27 Lucky #763 after "Rachel" called in a fraudulent prescription.

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1 b. Respondent's license is subject to revocation pursuant to Business and Professions
2 Code section 4301, subdivision (h) in that she stole and self-administered controlled substances as
3 described in paragraph 3(a), above.

4 c. Respondent's license is subject to revocation pursuant to Business and Professions
5 Code section 4301, subdivisions (j) and (o) in that she possessed controlled substances in
6 violation Business and Professions Code section 4060, as described in paragraph 3(a), above.

7 **ORDER**

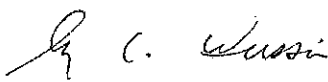
8 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 89567, heretofore
9 issued to Respondent Michelle Gordon, is revoked.

10 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
11 written motion requesting that the Decision be vacated and stating the grounds relied on within
12 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
13 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

14 This Decision shall become effective on October 24, 2014.

15 It is so ORDERED September 24, 2014.

16 BOARD OF PHARMACY
17 DEPARTMENT OF CONSUMER AFFAIRS
18 STATE OF CALIFORNIA

19 By 
20 STAN C. WEISSNER
21 Board President

22 Attachment:
23 Exhibit A: Accusation

24 90384385.DOC
25 SF2013901663

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 KIM M. SETTLES
Deputy Attorney General
4 State Bar No. 116945
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5 P.O. Box 70550
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Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **MICHELLE GORDON**
27816 Crowne Point Drive
13 Salinas, CA 93908
14 Pharmacy Technician Registration No. TCH
89567
15
16 Respondent.

Case No. 4730
A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about April 14, 2009, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 89567 to Michelle Gordon (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on May 31, 2014, unless renewed.

25 **JURISDICTION**

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

1 personal use approximately 210 tablets of Hydrocodone, 7 tablets of Suboxone, and 15 tablets of
2 Soma from the pharmacy.

3 B. Between October 12, 2011 and February 10, 2012, while employed at Dr.
4 Fisher's office in San Jose, California, Respondent admitted to calling in fraudulent prescriptions
5 and obtained 60 dosage units of Diazepam (RX242670) and 120 dosage units of Lorazepam
6 (RX235945 and RX249922) from CVS/Pharmacy #9808.

7 C. Between August 2011 and February 2012, while employed at Dr. Fisher's office
8 in San Jose, California, Respondent admitted to obtaining 60 dosage units of
9 hydrocodone/acetaminophen (RX4409736 and RX4409785) and 180 dosage units of alprazolam
10 (RX4410465 and RX4411076) from Target Store #T-1927, after "Rachel" and/or "Michelle"
11 called in fraudulent prescriptions.

12 D. In November 2011, while employed at Dr. Fisher's office in San Jose,
13 California, Respondent admitted to obtaining 60 dosage units of Diazepam (RX4607744) from
14 Lucky #763 after "Rachel" called in a fraudulent prescription.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Self-Administration of Controlled Substances)**

17 17. Respondent has subjected her license to disciplinary action under Code section 4301,
18 subdivision (h) in that she stole and self-administered controlled substances as set forth in
19 paragraph 16(A), above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct: Violation on Statutes)**

22 18. Respondent has subjected her license to disciplinary action under Code sections (j)
23 and (o) in that she violated Business and Professions Code section 4060 (possession of controlled
24 substance), as set forth in paragraph 16, above.

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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 89567, issued to Michelle Gordon;

2. Ordering Michelle Gordon to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED:

10/3/13


VIRGINIA HEROLD

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

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