

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

In the Matter of the Petition to Revoke
Probation Against:

CYNTHIA DAWN GOMEZ
4621 Fern Place Unit 2C
Los Angeles, CA 90032

**Intern Pharmacist Registration No. INT
21078**

Respondent.

Case No. 5826

OAH No. 2016120343

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on June 30, 2017.

It is so ORDERED on May 31, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
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300 So. Spring Street, Suite 1702
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Attorneys for Complainant
7

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

11 In the Matter of the Petition to Revoke
Probation Against
12 **CYNTHIA DAWN GOMEZ**
13 **4621 Fern Place Unit 2C**
Los Angeles, CA 90032
14 **Intern Pharmacist Registration No. INT**
21078
15
16 Respondent.

Case No. 5826
OAH No. 2016120343
STIPULATED SURRENDER OF
LICENSE AND ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

- 21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Xavier Becerra, Attorney General of the State of California, by William D. Gardner, Deputy
24 Attorney General.
- 25 2. Cynthia Dawn Gomez is represented in this proceeding by attorney Theodore A.
26 Cohen, Esq., whose address is 3701 Wilshire Blvd., Ste. 535, Los Angeles, CA 90010.
- 27 3. On or about September 11, 2007, the Board issued Intern Pharmacist Registration
28 No. INT 21078 to Cynthia Dawn Gomez (Respondent). The Intern Pharmacist Registration is

1 presently canceled but was in full force and effect at all times relevant to the charges brought in
2 Petition to Revoke Probation No. 5826.

3 JURISDICTION

4 4. Petition to Revoke Probation No. 5826 was filed before the (Board), and is currently
5 pending against Respondent. The Petition to Revoke Probation and all other statutorily required
6 documents were properly served on Respondent on September 19, 2016. Respondent timely filed
7 her Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to Revoke
8 Probation No. 5826 is attached as Exhibit A and incorporated by reference.

9 5. Pursuant to Business and Professions Code section 118, subdivision (b), the or
10 cancellation of Respondent's registration does not deprive the Board of its authority to continue
11 this proceeding or issue the disciplinary order set forth herein.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Petition to Revoke Probation No. 5826. Respondent also has carefully
15 read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of
16 License and Order.

17 7. Respondent is fully aware of her legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Petition to Revoke Probation; the right to confront
19 and cross-examine the witnesses against her; the right to present evidence and to testify on her
20 own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
21 production of documents; the right to reconsideration and court review of an adverse decision;
22 and all other rights accorded by the California Administrative Procedure Act and other applicable
23 laws.

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

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1 CULPABILITY

2 9. Respondent understands that the charges and allegations in Petition to Revoke
3 Probation No. 5826, if proven at a hearing, constitute cause for imposing discipline upon her
4 Intern Pharmacist Registration.

5 10. For the purpose of resolving the Petition to Revoke Probation without the expense
6 and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
7 establish a factual basis for the charges in the Petition to Revoke Probation and that those charges
8 constitute cause for discipline. Respondent hereby gives up her right to contest that cause for
9 discipline exists based on those charges.

10 11. Respondent understands that by signing this stipulation she enables the Board to issue
11 an order accepting the surrender of her Intern Pharmacist Registration without further process.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Board. Respondent understands
14 and agrees that counsel for Complainant and the staff of the Board may communicate directly
15 with the Board regarding this stipulation and surrender, without notice to or participation by
16 Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that
17 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
18 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
19 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
20 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
21 be disqualified from further action by having considered this matter.

22 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
24 thereto, shall have the same force and effect as the originals.

25 14. This Stipulated Surrender of License and Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
2 executed by an authorized representative of each of the parties.

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Intern Pharmacist Registration No. INT 21078, issued to
7 Respondent Cynthia Dawn Gomez, is surrendered and accepted by the Board of Pharmacy.

8 1. The surrender of Respondent's Intern Pharmacist Registration and the acceptance of
9 the surrendered license by the Board shall constitute the imposition of discipline against
10 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
11 Respondent's license history with the Board of Pharmacy.

12 2. Respondent shall lose any and all remaining rights and privileges related to Intern
13 Pharmacist Registration No. INT 21078 as of the effective date of the Board's Decision and
14 Order.

15 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
16 issued, her wall certificate on or before the effective date of the Decision and Order.

17 4. Respondent understands and agrees that if she ever files an application for licensure
18 or a petition for reinstatement in the State of California, the Board shall treat it as a new
19 application for licensure. Respondent may not apply for any license, permit, or registration from
20 the Board for three years from the effective date of this decision. Respondent must comply with
21 all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time
22 the application is filed, and all of the charges and allegations contained in Petition to Revoke
23 Probation No. 5826 shall be deemed to be true, correct and admitted by Respondent when the
24 Board determines whether to grant or deny the application.

25 5. Respondent shall pay the agency its costs of investigation and enforcement in the
26 amount of \$2,695.00 prior to the issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Theodore A. Cohen. I understand the stipulation and the effect it will have on my Intern Pharmacist Registration. I enter into this Stipulated Surrender of License and 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 this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____

THEODORE A. COHEN, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: 4/27/17

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Petition to Revoke Probation No. 5826

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
Probation Against
12 **CYNTHIA DAWN GOMEZ**
13 **4621 Fern Place Unit 2C**
Los Angeles, CA 90032
14 **Intern Pharmacist Registration No. INT**
21078
15
16 Respondent.

Case No. 5826

PETITION TO REVOKE PROBATION

17
18 Complainant alleges:

19 PARTIES

20 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation 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 September 11, 2007, the Board of Pharmacy issued Intern Pharmacist
24 Registration Number INT 21078 to Cynthia Dawn Gomez (Respondent). The Intern Pharmacist
25 Registration was in effect at all times relevant to the charges brought herein and will expire on
26 May 31, 2019, unless renewed.

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1 requirements, respondent shall state in each report under penalty of perjury whether there has been
2 compliance with all the terms and conditions of probation. Failure to submit timely reports in a
3 form as directed shall be considered a violation of probation. Any period(s) of delinquency in
4 submission of reports as directed may be added to the total period of probation. Moreover, if the
5 final probation report is not made as directed, probation shall be automatically extended until such
6 time as the final report is made and accepted by the Board.”

7 6. Respondent’s probation is subject to revocation because she failed to comply with
8 Probation Condition 2, referenced above. The facts and circumstances regarding this violation are
9 that Respondent failed to submit a Quarterly Report to the Board by January 10, 2016, as she has
10 been directed. Thereafter, the Board sent a letter of non-compliance to Respondent directing her
11 to submit the tardy Quarterly Report by no later than February 13, 2016. Respondent failed to
12 comply with that deadline as well.

13 **SECOND CAUSE TO REVOKE PROBATION**

14 **(Pharmacists’ Recovery Program)**

15 7. At all times after the effective date of Respondent’s probation, Condition 16 stated:
16 “Within thirty (30) days of the effective date of this decision, respondent shall contact the
17 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
18 successfully participate in, and complete the treatment contract and any subsequent addendums as
19 recommended and provided by the PRP and as approved by the Board or its designee. The costs
20 for PRP participation shall be borne by the respondent.

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

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

27 Probation shall be automatically extended until respondent successfully completes the PRP.
28 Any person terminated from the PRP program shall be automatically suspended by the Board.

1 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

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

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

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

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

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

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

25 8. Respondent’s probation is subject to revocation because she failed to comply with
26 Probation Condition 16, referenced above. The facts and circumstances regarding this violation
27 are that, on or about April 15, 2016, Respondent was terminated as a “public risk” from the PRP
28 in which she was enrolled due to multiple program violations.

1 **THIRD CAUSE TO REVOKE PROBATION**

2 **(Random Drug Screening)**

3 9. At all times after the effective date of Respondent's probation, Condition 17 stated, in
4 pertinent part:

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

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

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

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

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

9 10. Respondent’s probation is subject to revocation because she failed to comply with
10 Probation Condition 17, referenced above. The facts and circumstances regarding this violation
11 are that on November 24, 2015, February 15, 2016, March 17, 2016, April 14, 2016, and April 15,
12 2016 Respondent failed to daily report to confirm whether a test was required, and on November
13 29, 2015, November 30, 2015, and December 12, 2015, Respondent failed to test as scheduled.

14 **FOURTH CAUSE TO REVOKE PROBATION**

15 **(Abstain from Drug and Alcohol Use)**

16 11. At all times after the effective date of Respondent’s probation, Condition 18 stated:

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

28 ///

Exhibit A

Decision and Order

Board of Pharmacy Case No. 5826

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
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5 Post Office Box 70550
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6 Telephone: (510) 622-2143
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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 **CYNTHIA DAWN GOMEZ**
13 **232 Beverly Court**
King City, California 93930

14 **Intern Pharmacist Registration Number**
15 **INT 21078,**

16 Respondent.

Case Number 4364
OAH Number 2013120773

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

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

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

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

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

3 **JURISDICTION**

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

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

10 **ADVISEMENT AND WAIVERS**

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

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

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

24 **CULPABILITY**

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

27 ///

1 DISCIPLINARY ORDER

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

16 1. **Obey All Laws**

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

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

- 20 • an arrest or issuance of a criminal complaint for violation of any provision of the
21 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
22 substances laws
23 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
24 criminal complaint, information or indictment
25 • a conviction of any crime
26 • discipline, citation, or other administrative action filed by any state or federal agency
27 which involves respondent's intern pharmacist registration or which is related to the
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1 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
2 or charging for any drug, device or controlled substance
3 Failure to timely report such occurrence shall be considered a violation of probation.

4 **2. Report to the Board**

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

13 **3. Interview with the Board**

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

19 **4. Cooperate with Board Staff**

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

23 **5. Continuing Education**

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

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1 6. **Notice to Employers**

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

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

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

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

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

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

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

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

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

9 **8. Reimbursement of Board Costs**

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

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

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

19 **9. Probation Monitoring Costs**

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

24 **10. Status of License**

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

28 ///

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

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

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

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

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

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

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

28 ///

1 **13. Tolling of Probation**

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

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

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

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

21 **14. Violation of Probation**

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

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

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

6 **15. Completion of Probation**

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

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

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

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

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

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

24 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
25 licensed practitioner as part of a documented medical treatment shall result in the automatic
26 suspension of practice by respondent and shall be considered a violation of probation.

27 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

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

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

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

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

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

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

19 **17. Random Drug Screening**

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

1 documentation from a licensed practitioner that the prescription for a detected drug was
2 legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely
3 provide such documentation shall be considered a violation of probation. Any confirmed positive
4 ~~test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a~~
5 documented medical treatment shall be considered a violation of probation and shall result in the
6 automatic suspension of practice of pharmacy by respondent. Respondent may not resume the
7 practice of pharmacy until notified by the Board in writing.

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

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

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

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

24 **18. Abstain from Drugs and Alcohol Use**

25 Respondent shall completely abstain from the possession or use of alcohol, controlled
26 substances, dangerous drugs and their associated paraphernalia except when the drugs are
27 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
28 request of the Board or its designee, respondent shall provide documentation from the licensed

1 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
2 treatment of the respondent. Failure to timely provide such documentation shall be considered a
3 violation of probation. Respondent shall ensure that she is not in the same physical location as
4 individuals who are using illicit substances even if respondent is not personally ingesting the
5 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
6 not supported by the documentation timely provided, and/or any physical proximity to persons
7 using illicit substances, shall be considered a violation of probation.

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

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

1 violation of probation.

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

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

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

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

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

23 **20. Supervised Practice**

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

1 Continuous – At least 75% of a work week

2 Substantial – At least 50% of a work week

3 Partial – At least 25% of a work week

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

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

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

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

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

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

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

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

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

10 **21. No Supervision of Ancillary Personnel**

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

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

15 **22. No Ownership of Licensed Premises**

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

23 **23. Ethics Course**

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

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

1 days after completing the course.

ACCEPTANCE

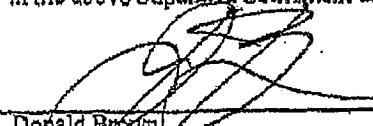
3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Donald Brown. I understand the stipulation and the effect it will
5 have on my intern pharmacist registration. I enter into this Stipulated Settlement and Disciplinary
6 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
7 of the Board of Pharmacy.

8 DATED: 6/26/2014


CYNTHIA DAWN GOMEZ
Respondent

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

14 DATED: JUL 14 2014

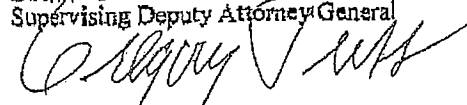

Donald Brown
Attorney for Respondent

ENDORSEMENT

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

21 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

28 SF2012402249

Exhibit 1

Accusation Number 4364

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Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
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5 Post Office Box 70550
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6 Telephone: (510) 622-2143
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case Number 4364

12 **CYNTHIA DAWN GOMEZ**
7531 Poppy Lane
13 Fontana, California 92336

ACCUSATION

14 Intern Pharmacist License Number
15 INT 21078

16 Respondent.

17
18 Complainant Virginia Herold alleges:

19 **PARTIES**

- 20 1. Complainant brings this Accusation solely in her official capacity as the Executive
21 Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
22 2. On or about September 11, 2007, the Board issued Intern Pharmacist License Number
23 INT 21078 to respondent Cynthia Dawn Gomez. This intern pharmacist license was in full force
24 and effect at all times relevant to the charges brought in this Accusation and will expire on May
25 31, 2013, unless renewed.

26 **JURISDICTION**

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

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

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

9 5. Section 4011 provides:

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

12 6. Section 4300 provides, in pertinent part:

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

14 7. Section 4304 provides:

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

18 **STATUTORY PROVISIONS**

19 8. Section 4060 provides, in pertinent part:

20 "No person shall possess any controlled substance, except that furnished to a person upon
21 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
22 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
23 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
24 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
25 pharmacist pursuant to either Section 4052.1 or 4052.2."

26 ///

27

28

1 9. Section 4301 provides, in pertinent part:

2 “The board shall take action against any holder of a license who is guilty of unprofessional
3 ~~conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.~~

4 Unprofessional conduct shall include, but is not limited to, any of the following:

5 ...

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

9 ...

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

15 ...

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

18 ...

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

23 10. Section 4327 provides:

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

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

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

28 ...

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

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

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

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

15 **FACTUAL BACKGROUND**

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

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

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

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

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

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

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

- 22 • 50 20 mg capsules Lisdexamfetamine
- 23 • 8 20 mg tablets Dimethylphenidate
- 24 • 11 25 mg capsules Dextroamphetamine-Amphetamine ER
- 25 • 7 10 mg tablets amphetamine salts
- 26 • 104 10 mg tablets Dextroamphetamine
- 27 • 6 36 mg tablets Methylphenidate
- 28 • 8 20 mg tablets Methylphenidate

1 • 13. 40 mg capsules · Methylphenidate

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

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

12 ~~28. On or about June 19, 2012, the Board's investigator interviewed respondent.~~

13 Respondent again stated that her urine sample became contaminated when she dropped it in the
14 toilet. She refused to take a second drug test because she did not want to work for people who did
15 not trust her. She denied taking any drugs from the pharmacy. She said she was on medication
16 when she was working at the pharmacy but refused to state what those medications were.

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

23 CAUSES FOR DISCIPLINE

24
25 **FIRST CAUSE FOR DISCIPLINE**
26 **Unprofessional Conduct – Act of Moral Turpitude,**
27 **Dishonesty, Fraud, Deceit, or Corruption**
28 **Bus. & Prof. Code, § 4301, subd. (f)**

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

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

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

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

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

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

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

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

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

27 35. The allegations of paragraphs 20-29 are realleged and incorporated by reference as if
28 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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1 controlled substance. As set forth in paragraphs 20-29 above, respondent tested positive for
2 amphetamines and admitted taking amphetamines that were given to her by a friend.

3 ~~FIFTH CAUSE FOR DISCIPLINE~~

4 **Unprofessional Conduct – Self-Administration of a Controlled Substance**
5 **Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11170**

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

8 38. Respondent has subjected her intern pharmacist license to disciplinary action under
9 Business and Professions Code section 4301, subdivision (j), and Health and Safety Code section
10 11170, for the unprofessional conduct of self-administration of a controlled substance. As set
11 forth in paragraphs 20-29 above, respondent tested positive for amphetamines and admitted
12 taking amphetamines that were given to her by a friend.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **Unprofessional Conduct – Under the Influence While on Duty**
15 **Bus. & Prof. Code, §§ 4301, subds. (j) & (o), 4327**

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

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

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 **Unprofessional Conduct – Use of Alcoholic Beverages**
25 **Bus. & Prof. Code, § 4301, subd. (h)**

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

28 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


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

6 PRAYER

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

- 9 1. Revoking or suspending Intern Pharmacist License Number INT 21078 issued to
10 Cynthia Dawn Gomez;
11 2. Ordering Cynthia Dawn Gomez to pay the Board the reasonable costs of the
12 investigation and enforcement of this case pursuant to Business and Professions Code section
13 125.3; and
14 3. Taking such other and further action as deemed necessary and proper.

15 DATED: 3/21/13


16 VIRGINIA HEROLD
17 Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 Complainant

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