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

11 In the Matter of the Accusation Against:

Case No. 3339

12 **TANYA ELIZABETH DYER, A.K.A.**
13 **TANYA ELIZABETH GARDNER**
3143 CEANOTHUS AVE.
14 CHICO, CA 95973

A C C U S A T I O N

15 ORIGINAL PHARMACY TECHNICIAN
REGISTRATION NUMBER TCH. 25254

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 10, 1998, the Board of Pharmacy issued Original Pharmacy
23 Technician Registration Number TCH 25254 to Tanya Elizabeth Dyer, a.k.a Tanya Elizabeth
24 Gardner (Respondent). The Pharmacy Technician Registration was in full force and effect at all
25 times relevant to the charges brought herein and will expire on November 30, 2009, unless
26 renewed.

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1 States Code regulating controlled substances or of a violation of the statutes of this
2 state regulating controlled substances or dangerous drugs shall be conclusive
3 evidence of unprofessional conduct. In all other cases, the record of conviction shall
4 be conclusive evidence only of the fact that the conviction occurred. The board may
5 inquire into the circumstances surrounding the commission of the crime, in order to
6 fix the degree of discipline or, in the case of a conviction not involving controlled
7 substances or dangerous drugs, to determine if the conviction is of an offense
8 substantially related to the qualifications, functions, and duties of a licensee under this
9 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
10 contendere is deemed to be a conviction within the meaning of this provision. The
11 board may take action when the time for appeal has elapsed, or the judgment of
12 conviction has been affirmed on appeal or when an order granting probation is made
13 suspending the imposition of sentence, irrespective of a subsequent order under
14 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
15 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
16 dismissing the accusation, information, or indictment.

17 (p) Actions or conduct that would have warranted denial of a license.

18 7. Section 4022 of the Code states, in pertinent part:

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

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

23 8. Section 480 of the Code states, in pertinent part:

24 (a) A board may deny a license regulated by this code on the grounds of:

25 (1) Been convicted of a crime. A conviction within the meaning of this section
26 means a plea or verdict of guilt or a conviction following a plea of nolo contendere.
27 Any action that a board is permitted to take following the establishment of a
28 conviction may be taken when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order
under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to
substantially benefit himself or herself or another or substantially injure another.

(3)(A) Done any act that if done by a licentiate of the business or profession in
question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the
crime or act is substantially related to the qualifications, functions, or duties of the
business or profession for which application is made.

9. Section 490 of the Code states, in pertinent part:

(a) In addition to any other action that a board is permitted to take against a
licensee, a board may suspend or revoke a license on the ground that the licensee has

1 been convicted of a crime, if the crime is substantially related to the qualifications,
functions, or duties of the business or profession for which the license was issued.

2 (b) Notwithstanding any other provision of law, a board may exercise any
3 authority to discipline a licensee for conviction of a crime that is independent of the
4 authority granted under subdivision (a) only if the crime is substantially related to the
qualifications, functions, or duties of the business or profession for which the
licensee's license was issued.

5 (c) A conviction within the meaning of this section means a plea or verdict of
6 guilty or a conviction following a plea of nolo contendere. Any action that a board is
7 permitted to take following the establishment of a conviction may be taken when the
8 time for appeal has elapsed, or the judgment of conviction has been affirmed on
appeal, or when an order granting probation is made suspending the imposition of
sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
the Penal Code.

9 10. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that
10 no person "shall obtain or attempt to obtain controlled substances, or procure or attempt to
11 procure the administration of or prescription for controlled substances by fraud, deceit,
12 misrepresentation, or subterfuge. . . ."

13 REGULATIONS

14 11. California Code of Regulations, title 16, section 1770, states:

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

19 DRUGS

20 12. "Klonopin" a brand name for Clonazepam, a benzodiazepine, is a Schedule IV
21 controlled substance as designated by Health and Safety Code section 11057, subdivision (d).
22 Klonopin is a dangerous drug within the meaning of Code section 2044 in that it can be lawfully
23 dispensed only on prescription.

24 COST RECOVERY

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Convictions)**

3 14. Respondent's original Registered Pharmacy Technician license is subject to
4 disciplinary action on the grounds of unprofessional conduct within the meaning of Code
5 sections 490 and 4301, subdivision (1), in that she was convicted of crimes substantially related to
6 the practice of a Registered Pharmacy Technician, as follows:

7 15. On or about May 16, 2007, in the case titled *People v. Tanya Elizabeth Dyer*, Butte
8 County Superior Court Case No. SCR60312. Respondent was convicted on her plea of no contest
9 to violation of Health & Safety Code section 11173, subdivision (a) [attempting to obtain a
10 controlled substance by fraud, deceit, misrepresentation or subterfuge], a misdemeanor. Among
11 other things, Respondent was ordered to: complete 50 hours of community service within six
12 months of the conviction date; summary probation for 36 months; submit to testing and totally
13 refrain from controlled substances; attend AA/NA at least three times per week; submit to
14 searches of controlled substances and/or paraphernalia; and payment of fees and fines.

15 The underlying circumstances are: On or about April 1, 2007, Respondent attempted to
16 obtain Klonopin, a controlled substance, by fraud, deceit, misrepresentation, or subterfuge from a
17 chain drugstore in Chico, California.

18 16. On or about March 7, 2006, in the case titled *People v. Tanya Dyer*, Butte County
19 Superior Court Case No. SCR53885. Respondent was convicted on her plea of no contest to
20 violation of Vehicle Code section 23152, subdivision (a) [driving a motor vehicle under the
21 influence of alcohol or drugs, or combined influence of alcohol or drugs], a misdemeanor.
22 Among other things, Respondent was ordered to: conditional revocable release for 36 months;
23 serve 48 hours in county jail; successfully complete a level 1 DUI school; not to refuse a chemical
24 test pursuant to the Vehicle Code; and pay restitution, fines, and fees.

25 The underlying circumstances are as follows: On or about January 3, 2006, Respondent
26 drove her vehicle while under the influence of alcohol and/or drugs or combined, when she drove
27 into a parked vehicle in Chico, California, and fled the scene.

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1 4301, subdivision (a), in that she committed acts of gross immorality, as set forth more fully in
2 paragraphs 15 and 16 above.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Moral Turpitude, Dishonesty, Fraud, Etc.)**

5 21. Respondent's Original Registered Pharmacy Technician license is subject to
6 disciplinary action on the grounds of unprofessional conduct within the meaning of Code sections
7 4301, subdivision (f), and 480, subdivision (a)(10), (12), and (3) in that she committed acts
8 involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth more fully in
9 paragraphs 15 and 16 above.

10 **SEVENTH CAUSE FOR DISCIPLINE**

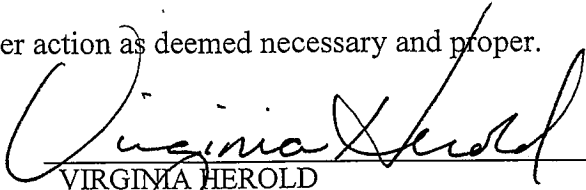
11 22. Respondent's Original Registered Pharmacy Technician license is subject to
12 disciplinary action on the grounds of unprofessional conduct within the meaning of Code section
13 4301, subdivision (p), in that she committed acts that would have warranted denial of a license
14 pursuant to Code section 475, as set forth more fully in paragraphs 15 and 16 above.

15 **PRAYER**

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

- 18 1. Revoking or suspending Pharmacy Technician Registration Number TCH 25254,
19 issued to Tanya Elizabeth Dyer, a.k.a. Tanya Elizabeth Gardner;
- 20 2. Ordering Tanya Elizabeth Dyer, a.k.a. Tanya Elizabeth Gardner to pay the Board of
21 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
22 Business and Professions Code section 125.3;
- 23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 9/17/09

25 
26 VIRGINIA HEROLD
27 Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant