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8	BEFORE THE BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
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11	In the Matter of the Accusation Against: Case No. 3679
12	MICHELLE CHARLENE SAPIDA 444 Moorland Street
13	Vallejo, CA 94589 A C C U S A T I O N
14	Pharmacy Technician License No. TCH 91564
15	Respondent.
16	Complainant alleges:
17	Complaniant anoges.
	D A D TEXT C
18	<u>PARTIES</u>
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 August 11, 2009, the Board of Pharmacy issued Pharmacy Technician
22	License No. TCH 91564 to Michelle Charlene Sapida (Respondent). The Pharmacy Technician
23	License was in full force and effect at all times relevant to the charges brought herein and will
24	expire on July 31, 2011, unless renewed.
25	<u>JURISDICTION</u>
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 (Code) unless otherwise indicated.
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4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

- 5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.
- 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

STATUTORY AND REGULATORY PROVISIONS

- 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:
- (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.
- 8. California Code of Regulations, title 16, section 1770, provides that a crime or act is substantially related to the qualifications, functions or duties of a licensee if to a substantial degree it evidences present or potential unfitness to perform the functions authorized by the license or registration in a manner consistent with the public health, safety, or welfare.
- 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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FACTUAL BACKGROUND

- 10. On or about February 6, 2009, without consent to do so, Respondent used a name and personal information including social security number belonging to another person to fraudulently open up a new cellular telephone account with Sprint. Respondent used the account until it was closed by Sprint on or about June 29, 2009 with a delinquent balance of \$338.47.
- 11. On or about November 20, 2009, based on the events described in paragraph 10, in a criminal case titled *People v. Michelle Charlene Sapida*, Case No. FCR271967 in Solano County Superior Court, Respondent was charged by Misdemeanor Complaint with violating Penal Code section 530.5(a) (Identify theft), a misdemeanor.
- 12. On or about December 29, 2009, Respondent signed a Diversion Agreement in Case No. FCR271967 for pre-trial District Attorney Diversion agreeing, among other things, to enroll in a Diversion Class administered by the District Attorney, and to pay restitution of \$338.47 to the victim, both within six months. Further proceedings in the case were suspended and a hearing was set for June 29, 2010 to consider the case for possible dismissal.
- 13. On or about June 29, 2010, Respondent was again ordered to enroll in the Diversion Class and to pay restitution. A further hearing was set for December 17, 2010.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

14. Respondent is subject to discipline under section 4301(f) of the Code, in that Respondent, as described in paragraph 10 above, committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

15. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 10 to 14 above, engaged in unprofessional conduct.

PRAYER

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

- 1. Revoking or suspending Pharmacy Technician License No. TCH 91564, issued to Michelle Charlene Sapida (Respondent);
- 2. Ordering Respondent to pay the Board 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 isdeemed necessary and proper.

DATED: 9/23/10

VIRGINIA HEROLD Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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