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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 Accusation Against:

Case No. 3936

12 **JUSTIN STEVEN GRAZA**
3853 N. Briarpath Ave.
13 Covina, CA 91724

ACCUSATION

14 Pharmacy Technician License No. TCH 99807

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about April 21, 2010, the Board issued Pharmacy Technician License No. TCH
22 99807 to Justin Steven Graza (Respondent). The Pharmacy Technician License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on June 30, 2011,
24 unless renewed.

25 **JURISDICTION**

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

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STATUTORY PROVISIONS

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

5. Section 490 provides that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

6. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or revoked."

7. Section 4301 states, in pertinent part:
"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

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

....

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

....

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

....

1 "(l) The conviction of a crime substantially related to the qualifications, functions, and
2 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
3 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
4 substances or of a violation of the statutes of this state regulating controlled substances or
5 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . .

6

7 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by
10 the board or by any other state or federal regulatory agency. . . ."

11 8. Section 4060 states:

12 "No person shall possess any controlled substance, except that furnished to a person upon
13 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
15 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
16 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
17 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
18 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
19 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
20 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
21 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
22 labeled with the name and address of the supplier or producer.

23 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
24 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
25 devices."

26 9. Section 4059 provides that a person may not furnish any dangerous drug except upon
27 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
28 pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the

1 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
2 pursuant to Section 3640.7.

3 **REGULATORY PROVISION**

4 10. California Code of Regulations, title 16, section 1770, states:

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

11 **COST RECOVERY**

12 11. Section 125.3 states, in pertinent part, that the Board may request the administrative
13 law judge to direct a licentiate found to have committed a violation or violations of the licensing
14 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
15 case.

16 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

17 12. Diazepam, generic for the brand name Valium, a benzodiazepam derivative, is a
18 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(8)
19 and is categorized as a dangerous drug pursuant to section 4022.

20 13. Xanax, a brand name for alprazolam, is an anti-anxiety benzodiazepin and is a
21 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1)
22 and is categorized as a dangerous drug pursuant to section 4022.

23 14. Marijuana is a Schedule I controlled substance as designated by Health and Safety
24 Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to
25 section 4022.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Conviction of Substantially Related Crime)**

3 15. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,
4 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
5 grounds of unprofessional conduct, in that on or about May 11, 2010, Respondent was convicted
6 of a crime substantially related to the qualifications, functions or duties of a licensee or registrant
7 which to a substantial degree evidences his present or potential unfitness to perform the functions
8 authorized by his license or registration in a manner consistent with the public health, safety, or
9 welfare, as follows:

10 a. On or about May 11, 2010, after pleading guilty, Respondent was convicted of one
11 misdemeanor count of violating Business and Professions Code section 4060 [possession of un-
12 prescribed medication] in the criminal proceeding entitled *The People of the State of California v.*
13 *Justin Steven Graza* (Super. Ct. Los Angeles County, 2010, No. 0PK02460). The Court placed
14 Respondent on 12 months of probation.

15 b. The circumstances underlying the conviction are that on or about March 4, 2010,
16 Respondent admitted to stealing Xanax and Diazepam, which were in his possession, from his
17 employer CVS Pharmacy, and further, Respondent was found to be in possession of marijuana.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Illegal Possession of Controlled Substances)**

20 16. Respondent is subject to disciplinary action under sections 4300 and 4301,
21 subdivisions (j) and (o), for violating section 4059 and 4060, on the grounds of unprofessional
22 conduct, in that Respondent stole and possessed controlled substances and dangerous drugs,
23 without valid prescriptions. Complainant refers to and by this reference incorporates the
24 allegations set forth above in paragraph 15, subparagraphs a and b, inclusive, as though set forth
25 fully.

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1 THIRD CAUSE FOR DISCIPLINE

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

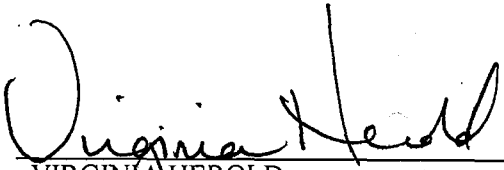
3 14. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
5 involving moral turpitude, dishonesty, fraud, deceit or corruption. Complainant refers to and by
6 this reference incorporates the allegations set forth above in paragraphs 14 - 16, inclusive, as
7 though set forth fully.

8 PRAYER

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

- 11 1. Revoking or suspending Pharmacy Technician License No. TCH 99807, issued to
12 Justin Steven Graza;
- 13 2. Ordering Justin Steven Graza to pay the Board the reasonable costs of the
14 investigation and enforcement of this case, pursuant to section 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.

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17
18 DATED: 8/16/11


19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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