

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
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:

Case No. 4198

12 **JACOB TYLER DORSTAD**
13 **1401 Alrose Lane**
Redding, CA 96002

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH**
15 **104943**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about January 18, 2011, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 104943 to Jacob Tyler Dorstad (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 August 31, 2012, unless renewed.

25 **JURISDICTION**

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. Section 4300 of the Code states, in pertinent part:

- (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.
 - (4) Revoking his or her license.
 - (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

....

5. Section 4301 of the Code 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:

- (a) Gross immorality.
-
- (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.

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action 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

1 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
2 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment.

4
5 6. Section 4311(c)(4) states:

6
7 A conviction of any crime referred to in Section 4301, or for violation of Section 187,
8 261, or 288 of the Penal Code, shall be conclusively presumed to be substantially
9 related to the qualifications, functions, or duties of a licensee of the board. Upon its
10 own motion or for good cause shown the board may decline to impose a suspension
11 under this subdivision or may set aside a suspension previously imposed when it
12 appears to be in the interest of justice to do so, with due regard to maintaining the
13 integrity of and confidence in the practice of pharmacy and the handling of dangerous
14 drugs and devices.

15 7. Section 118, subdivision (b), of the Code provides that the expiration of a license
16 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
17 within which the license may be renewed, restored, reissued or reinstated.

18 COST RECOVERY

19 8. Section 125.3 of the Code states, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 FIRST CAUSE FOR DISCIPLINE

24 (Criminal Conviction)

25 9. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
26 Respondent was convicted of a crime substantially related to the qualifications, functions, and
27 duties of a licensee, as follows:

28 10. On or about August 17, 2011, Respondent was convicted following his plea of guilty
to two counts of a felony violation of Penal Code section 288(a) (lewd or lascivious acts with a
child under the age of fourteen) in *People v. Jacob Tyler Dorstad* (Super. Ct. Shasta County,

1 2011, Case No. 10-08662). The circumstances of the crime are during the period of October 1,
2 2009 through March 15, 2010, Respondent committed lewd and lascivious acts upon Jane Doe, a
3 twelve year old child. The lewd and lascivious acts occurred on a nightly basis, and included oral
4 sex and anal sex. Respondent lived in the same residence as Jane Doe at the time, as he was the
5 boyfriend of Jane Doe's brother.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Gross Immorality)**

8 11. Paragraph 10 is incorporated herein by reference

9 12. Respondent is subject to disciplinary action under section 4301, subdivision (a) in
10 that Respondent committed acts of gross immorality, as set forth in paragraph 10, above.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Acts of Moral Turpitude)**

13 13. Paragraph 10 is incorporated herein by reference

14 14. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that
15 Respondent committed acts of moral turpitude, as set forth in paragraph 10, above.

16 **PRAYER**

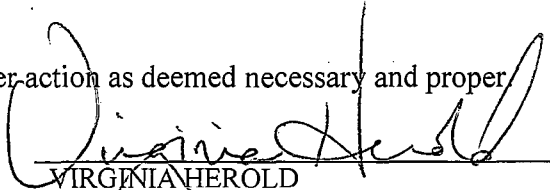
17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Pharmacy issue a decision:

19 1. Revoking or suspending Pharmacy Technician License Number TCH 104943, issued
20 to Jacob Tyler Dorstad.;

21 2. Ordering Jacob Tyler Dorstad to pay the Board of Pharmacy the reasonable costs of
22 the investigation and enforcement of this case, pursuant to Business and Professions Code section
23 125.3;

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

25 DATED: 12/5/11


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