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

11 In the Matter of the Accusation Against:

Case No. 4626

12 **MIKE ANTHONY GRANVILLE**  
13 **791 Oleander Street**  
14 **Hemet, CA 92543**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration No. TCH**  
**69080**

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 May 25, 2006, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 69080 to Mike Anthony Granville (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on August 31, 2013, unless renewed.

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1           9.     Section 493 of the Code states:

2                 Notwithstanding any other provision of law, in a proceeding conducted by a  
3                 board within the department pursuant to law to deny an application for a license or  
4                 to suspend or revoke a license or otherwise take disciplinary action against a  
5                 person who holds a license, upon the ground that the applicant or the licensee has  
6                 been convicted of a crime substantially related to the qualifications, functions, and  
7                 duties of the licensee in question, the record of conviction of the crime shall be  
8                 conclusive evidence of the fact that the conviction occurred, but only of that fact,  
9                 and the board may inquire into the circumstances surrounding the commission of  
10                the crime in order to fix the degree of discipline or to determine if the conviction is  
11                substantially related to the qualifications, functions, and duties of the licensee in  
12                question.

13                As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
14                'registration.'

15           10.    Section 4059 of the Code states, in pertinent part, that a person may not furnish any  
16           dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
17           veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
18           dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,  
19           veterinarian, or naturopathic doctor pursuant to Section 3640.7.

20           11.    Section 4060 of the Code states:

21                 No person shall possess any controlled substance, except that furnished to a  
22                 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
23                 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
24                 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
25                 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
26                 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a  
27                 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
28                 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
                  section shall not apply to the possession of any controlled substance by a  
                  manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
                  optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
                  practitioner, or physician assistant, when in stock in containers correctly labeled  
                  with the name and address of the supplier or producer.

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

                  12.    Section 4301 of the Code states:

                  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:

....

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

4 ....

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

11 ....

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

14 (k) The conviction of more than one misdemeanor or any felony involving  
15 the use, consumption, or self-administration of any dangerous drug or alcoholic  
16 beverage, or any combination of those substances.

17 (l) The conviction of a crime substantially related to the qualifications,  
18 functions, and duties of a licensee under this chapter. The record of conviction of  
19 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
20 States Code regulating controlled substances or of a violation of the statutes of this  
21 state regulating controlled substances or dangerous drugs shall be conclusive  
22 evidence of unprofessional conduct. In all other cases, the record of conviction  
23 shall be conclusive evidence only of the fact that the conviction occurred. The  
24 board may inquire into the circumstances surrounding the commission of the  
25 crime, in order to fix the degree of discipline or, in the case of a conviction not  
26 involving controlled substances or dangerous drugs, to determine if the conviction  
27 is of an offense substantially related to the qualifications, functions, and duties of a  
28 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 Section 1203.4 of the Penal Code allowing the person to  
withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
the verdict of guilty, or dismissing the accusation, information, or indictment.

....

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

....

1 13. Health and Safety Code section 11170 provides that no person shall prescribe,  
2 administer, or furnish a controlled substance for himself.

3 14. Health and Safety Code section 11173(a) provides that no person shall obtain or  
4 attempt to obtain controlled substances, or procure or attempt to procure the administration of or  
5 prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or  
6 (2) by the concealment of a material fact.

7 15. Health and Safety Code section 11350 provides that every person who possesses a  
8 controlled substance, unless upon the prescription of a physician, dentist, podiatrist, or  
9 veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state  
10 prison.

11 **REGULATORY PROVISIONS**

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

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

19 17. California Code of Regulations, title 16, section 1769, states, in pertinent part:

20 . . . .

21 (b) When considering the suspension or revocation of a facility or a  
22 personal license on the ground that the licensee or the registrant has been  
23 convicted of a crime, the board, in evaluating the rehabilitation of such person and  
his present eligibility for a license will consider the following criteria:

24 (1) Nature and severity of the act(s) or offense(s).

25 (2) Total criminal record.

26 (3) The time that has elapsed since commission of the act(s) or offense(s).

27 (4) Whether the licensee has complied with all terms of parole, probation,  
restitution or any other sanctions lawfully imposed against the licensee.

28 (5) Evidence, if any, of rehabilitation submitted by the licensee.

1 COST RECOVERY

2 18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 DRUGS

9 19. Hydrocodone/acetaminophen, also known by the brand names Vicodin, Vicodin ES,  
10 Norco, Zydone, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a narcotic  
11 Schedule III controlled substance as designated by Health and Safety Code section 11056,  
12 subdivision (e)(4), and is a dangerous drug pursuant to Business and Professions Code section  
13 4022. Hydrocodone is used as a narcotic analgesic in the relief of pain.

14 FIRST CAUSE FOR DISCIPLINE

15 **(October 20, 2011 Criminal Conviction for Burglary and Possession for Sale)**

16 20. Respondent is subject to disciplinary action under sections 490 and 4301,  
17 subdivisions (k) and (l), in that he was convicted of crimes that are substantially related to the  
18 qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows:

19 a. On or about October 20, 2011 in a criminal proceeding entitled *People of the*  
20 *State of California v. Michael Anthony Granville*, Riverside County Superior Court case number  
21 SWF1101179, Respondent was convicted by his guilty plea of a felony violation of Penal Code  
22 section 459, burglary and a felony violation of Health and Safety Code section 11351, possession  
23 of a controlled substance for sale.

24 b. The facts that led to the conviction are that Respondent was employed as a  
25 pharmacy technician at the Target Store Pharmacy in Hemet, California. Due to potential  
26 discrepancies in the inventory control of hydrocodone/acetaminophen at the Hemet store, internal  
27 investigators for Target conducted an investigation. On April 15, 2011 Respondent was observed  
28 by a surveillance camera taking tablets from store supplies and putting them in his pocket. When

1 Respondent left the pharmacy for a break he was detained by the investigators and asked to empty  
2 his pockets. He produced a plastic bag containing 245 hydrocodone/acetaminophen (aka APAP)  
3 10/325<sup>1</sup> tablets and five #6 amoxicillin 500 mg capsules.

4 c. Respondent was interviewed by the Target investigators and the Hemet Police  
5 Department. During the interviews, Respondent admitted to stealing hydrocodone/APAP, generic  
6 for Norco, tablets from the Target pharmacy without payment. Respondent stated that he had  
7 been stealing the tablets since December of 2010. Respondent admitted that he stole the tablets  
8 approximately three times during each work week, since December, by taking approximately 3/4  
9 of a 500 count bottle each time. He admitted that he initially took the tablets for his personal  
10 consumption, but then began selling them for \$1.00 per tablet. He estimated he had made  
11 \$10,000.00 by selling the tablets. He also admitted to using 12 tablets per day.

12 d. Target's inventory control review showed that the pharmacy was missing at  
13 least 40,929 tablets of hydrocodone/APAP 10/325.

14 e. As a result of his conviction, Respondent was sentenced to three years of  
15 supervised probation, serve 180 days in county jail on a weekender program, ordered to pay fees  
16 and fines, and enroll in a drug treatment program.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Dishonesty and Deceit)**

19 21. Respondent is subject to disciplinary action for unprofessional conduct under section  
20 4301, subdivision (f) of the Code in that Respondent's theft from the Target Pharmacy constitutes  
21 dishonesty and deceit, as set forth in paragraph 20, above, incorporated herein by reference.

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27 <sup>1</sup> Hydrocodone/acetaminophen (aka APAP) 10/325 designation refers to the amount  
28 present in mgs of hydrocodone (the first number) and acetaminophen (the second number) for  
that formulation.

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**THIRD CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct - Self-Administration of a Controlled Substance)**

22. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (h) of the Code in that Respondent illegally administered a controlled substance to himself, as set forth in paragraph 20, above, incorporated herein by reference.

**FOURTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct - Violating Laws Regulating Controlled Substances)**

23. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (j) of the Code in that he violated California Health and Safety Code sections 11173, subdivision (a), 11170, and 11350, subdivision (a), as set forth in paragraph 20, above, incorporated herein by reference.

**FIFTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct - Violation of Chapter)**

24. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (o) of the Code in that Respondent violated the Pharmacy Act by furnishing a dangerous drug to himself and others in violation of Code section 4059 and illegally possessing a controlled substance in violation of Code section 4060, as set forth in paragraph 20, above, incorporated herein by reference.

**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 Registration Number TCH 69080, issued to Mike Anthony Granville;
2. Ordering Mike Anthony Granville to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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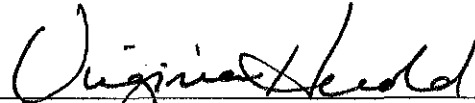


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3. Taking such other and further action as deemed necessary and proper.

DATED:

5/9/13



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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