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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. 4730

12 **MICHELLE GORDON**
13 **27816 Crowne Point Drive**
Salinas, CA 93908

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **89567**

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 April 14, 2009, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 89567 to Michelle Gordon (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on May 31, 2014, 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 4. Section 118, subdivision (b), of the Code provides that the expiration of a license
2 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
3 within which the license may be renewed, restored, reissued or reinstated.

4 **STATUTORY PROVISIONS**

5 5. Section 4300 of the Code states:

6 “(a) Every license issued may be suspended or revoked...”

7 6. Section 4301 of the Code states, in pertinent part:

8 “The board shall take action against any holder of a license who is guilty of unprofessional
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

10 Unprofessional conduct shall include, but is not limited to, any of the following:

11

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

15

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

21

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

24 ...

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

1 7. Section 4060 of the Code states:

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

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

16 **COST RECOVERY**

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

23 **DRUGS**

24 9. " Lorcet", "Lortab", "Norco", and "Vicodin" each contain the generic named
25 narcotic Hydrocodone/Acetaminophen, and are used to relieve pain. It is a Schedule III
26 controlled substance, as designated by health and Safety Code section 11056, subdivision (e)(4),
27 and a dangerous drug pursuant to Business and Professions Code section 4022.

28

1 10. **“Suboxone”** (generic name “Buprenorphine/Naloxone”) is used to treat opioid
2 dependence. It is a Schedule III controlled substance, as designated by Health and Safety Code
3 section 11056 and a dangerous drug pursuant to Business and Professions Code section 4022.

4 11. **“Soma”** (generic name “Carisoprodol”) is used as a muscle relaxer. It is a Schedule
5 IV controlled substance, as designated by Health and Safety Code section 11057, and a dangerous
6 drug pursuant to Business and Professions Code section 4022.

7 12. **“Valium”** (generic name “Diazepam”) is used to treat anxiety, panic attacks,
8 insomnia and seizures. It is a Schedule IV controlled substance, as designated by Health and
9 Safety Code section 11057, subdivision (d)(9), and a dangerous drug pursuant to Business and
10 Professions Code section 4022.

11 13. **“Ativan”** (generic name “Lorazepam”) is used to treat anxiety. It is a Schedule IV
12 controlled substance, as designated by Health and Safety Code section 11057, subdivision
13 (d)(16), and a dangerous drug pursuant to Business and Professions Code section 4022.

14 14. **“Bontril”** (generic name “Phendimetrazine”) is used to treat obesity. It is a Schedule
15 III controlled substance, as designated by health and Safety Code section 11056, subdivision (b)
16 (6), and a dangerous drug pursuant to Business and Professions Code section 4022.

17 15. **“Xanax”** (generic name “Alprazolam”) is a benzodiazepam derivative that is used to
18 treat anxiety and panic disorder. It is a Schedule IV controlled substance, as designated by Health
19 and Safety Code section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business
20 and Professions Code section 4022.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct: Theft of Controlled Substances)**

23 16. Respondent has subjected her license to disciplinary action under Code section 4301,
24 subdivision (f) in that without authorization and in violation of the law she obtained and
25 possessed controlled substances and/or dangerous drugs as follows:

26 A. Between April of 2012 until June 15, 2012, while employed as a pharmacy
27 technician at CVS/Pharmacy #9802 in Monterey, California, Respondent admitted stealing for her
28

1 personal use approximately 210 tablets of Hydrocodone, 7 tablets of Suboxone, and 15 tablets of
2 Soma from the pharmacy.

3 B. Between October 12, 2011 and February 10, 2012, while employed at Dr.
4 Fisher's office in San Jose, California, Respondent admitted to calling in fraudulent prescriptions
5 and obtained 60 dosage units of Diazepam (RX242670) and 120 dosage units of Lorazepam
6 (RX235945 and RX249922) from CVS/Pharmacy #9808.

7 C. Between August 2011 and February 2012, while employed at Dr. Fisher's office
8 in San Jose, California, Respondent admitted to obtaining 60 dosage units of
9 hydrocodone/acetaminophen (RX4409736 and RX4409785) and 180 dosage units of alprazolam
10 (RX4410465 and RX4411076) from Target Store #T-1927, after "Rachel" and/or "Michelle"
11 called in fraudulent prescriptions.

12 D. In November 2011, while employed at Dr. Fisher's office in San Jose,
13 California, Respondent admitted to obtaining 60 dosage units of Diazepam (RX4607744) from
14 Lucky #763 after "Rachel" called in a fraudulent prescription.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Self-Administration of Controlled Substances)**

17 17. Respondent has subjected her license to disciplinary action under Code section 4301,
18 subdivision (h) in that she stole and self-administered controlled substances as set forth in
19 paragraph 16(A), above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct: Violation on Statutes)**

22 18. Respondent has subjected her license to disciplinary action under Code sections (j)
23 and (o) in that she violated Business and Professions Code section 4060 (possession of controlled
24 substance), as set forth in paragraph 16, above.

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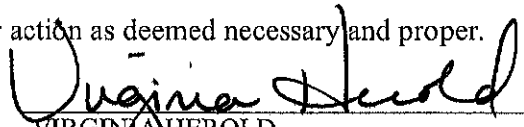
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 89567, issued to Michelle Gordon;
2. Ordering Michelle Gordon 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/3/13


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

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