| 1  | KAMALA D. HARRIS<br>Attorney General of California   |  |
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| 2  | KAREN B. CHAPPELLE<br>Supervising Deputy Attorney General                                      |  |
| 3  | THOMAS L. RINALDI<br>Deputy Attorney General   |  |
| 4  | State Bar No. 206911<br>300 So. Spring Street, Suite 1702                                      |  |
| 5  | Los Angeles, CA 90013<br>Telephone: (213) 897-2541   |  |
| 6  | Facsimile: (213) 897-2804<br>Attorneys for Complainant   |  |
| 7  |  | RE THE   |
| 8  | BOARD OF PHARMACY<br>DEPARTMENT OF CONSUMER AFFAIRS  |  |
| 9  |  | CALIFORNIA                                       |
| 10 | In the Matter of the Accusation and Petition to  | Case No. 4877                                    |
| 11 | Revoke Probation Against,  |  |
| 12 | FRED O. GREGORIAN<br>19776 Ahwanee Lane  | ACCUSATION AND PETITION TO                       |
| 13 | Northridge, CA 91326<br>Pharmacist License No. RPH 47542                                       | REVOKE PROBATION                                 |
| 14 | Respondent.  |  |
| 15 |  |  |
| 16 | Complainant alleges:   |  |
| 17 | PAR  | TIES   |
| 18 | 1. Virginia Herold (Complainant) bring   | s this Accusation and Petition to Revoke         |
| 19 | Probation solely in her official capacity as the Ex  | secutive Officer of the Board of Pharmacy,       |
| 20 | Department of Consumer Affairs.  |  |
| 21 | 2. On or about August 12, 1994, the Bo   | oard of Pharmacy issued Pharmacist License       |
| 22 | Number RPH 47542 to Fred O. Gregorian (Resp  | ondent). The Pharmacist License was in effect at |
| 23 | all times relevant to the charges brought herein a   | nd will expire on November 30, 2015, unless      |
| 24 | renewed.   |  |
| 25 | 3. In a disciplinary action entitled "In the   | ne Matter of Accusation Against Fred O.          |
| 26 | Gregorian," Case No. AC 2669, the Board of Pharmacy, issued a decision, effective April 20,    |  |
| 27 | 2005, in which Respondent's Pharmacist License   | e was revoked. However, the revocation was       |
| 28 | stayed and Respondent's Pharmacist License was placed on probation for a period of three years |  |
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|    |  | PETITION TO REVOKE PROBATION                     |

| 1  | with certain terms and conditions. A copy of that decision is attached as Exhibit A and is           |  |
|----|--|--|
| 2  | incorporated by reference.   |  |
| 3  | JURISDICTION AND STATUTORY   |  |
| 4  | PROVISIONS FOR ACCUSATION  |  |
| 5  | 4. This Accusation is brought before the Board of Pharmacy (Board), under the                        |  |
| 6  | authority of the following laws. All section references are to the Business and Professions Code     |  |
| 7  | unless otherwise indicated.  |  |
| 8  | 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,               |  |
| 9  | surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a |  |
| 10 | disciplinary action during the period within which the license may be renewed, restored, reissued    |  |
| 11 | or reinstated.   |  |
| 12 | 6. Section 4301 of the Code states, in pertinent part:   |  |
| 13 | "The board shall take action against any holder of a license who is guilty of                        |  |
| 14 | unprofessional conduct or whose license has been procured by fraud or misrepresentation or           |  |
| 15 | issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the           |  |
| 16 | following:   |  |
| 17 |  |  |
| 18 | "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit,                 |  |
| 19 | or corruption, whether the act is committed in the course of relations as a licensee or otherwise,   |  |
| 20 | and whether the act is a felony or misdemeanor or not.   |  |
| 21 | "(g) Knowingly making or signing any certificate or other document that falsely                      |  |
| 22 | represents the existence or nonexistence of a state of facts.  |  |
| 23 | ••••   |  |
| 24 | COST RECOVERY  |  |
| 25 | 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the             |  |
| 26 | administrative law judge to direct a licentiate found to have committed a violation or violations of |  |
| 27 | the licensing act to pay a sum not to exceed the reasonable costs of the investigation and           |  |
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| ļ  | PETITION TO REVOKE PROBATION   |  |

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| 1  | enforcement of the case, with failure of the licentiate to comply subjecting the license to not being |  |
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| 2  | renewed or reinstated.  |  |
| 3  | FIRST CAUSE FOR DISCIPLINE  |  |
| 4  | (Unprofessional Conduct: Dishonesty/False Representations)  |  |
| 5  | 8. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and              |  |
| 6  | (g), in that Respondent engaged in acts of dishonesty and/or deceit when he made false                |  |
| 7  | representations to the Board. The circumstances are that between November, 2008 and October,          |  |
| 8  | 2009, Respondent submitted signed statements to the Pharmacists Recovery Program at Maximus           |  |
| 9  | Inc. representing that a participant under his supervision was working 30-32 hours per week. In       |  |
| 10 | fact, the participant was only working eight hours per week.  |  |
| 11 | JURISDICTION FOR PETITION TO REVOKE PROBATION   |  |
| 12 | 9. This Petition to Revoke Probation is brought before the Board under Probation Term                 |  |
| 13 | and Condition Number 15 of the Decision and Order In the Matter of Accusation Against Fred O.         |  |
| 14 | Gregorian, Case No. 2669. That term and condition states as follows:                                  |  |
| 15 | "If respondent violates probation in any respect, the Board, after giving Respondent                  |  |
| 16 | notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order      |  |
| 17 | which was stayed. If a petition to revoke probation or an accusation is filed against Respondent      |  |
| 18 | during probation, the Board shall have continuing jurisdiction and the period of probation shall be   |  |
| 19 | extended, until the petition to revoke probation or accusation is heard and decided.                  |  |
| 20 | If Respondent has not complied with any term or condition of probation, the Board shall               |  |
| 21 | have continuing jurisdiction over Respondent, and probation shall automatically be extended until     |  |
| 22 | all terms and conditions have been satisfied or the Board has taken other action as deemed            |  |
| 23 | appropriate to treat the failure to comply as a violation of probation, to terminate probation, and   |  |
| 24 | to impose the penalty which was stayed.   |  |
| 25 | FIRST CAUSE TO REVOKE PROBATION   |  |
| 26 | (Failure to File Quarterly Reports as Required)   |  |
| 27 | 10. At all times after the effective date of Respondent's probation, Condition No. 4                  |  |
| 28 | stated:   |  |
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|    | PETITION TO REVOKE PROBATION  |  |

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| 1  | <b>Reporting to the Board</b> . Respondent shall report to the Board quarterly. The report shall  |
| 2  | be made either in person or in writing, as directed. Respondent shall state under penalty of      |
| 3  | perjury whether there has been compliance with all the terms and conditions of probation. If the  |
| 4  | final probation report is not made as directed, probation shall be extended automatically until   |
| 5  | such time as the final report is made and accepted by the Board.                                  |
| 6  | 11. Respondent's probation is subject to revocation because he failed to comply with              |
| 7  | Probation Condition No. 4 by failing to provide reports on a quarterly basis. Respondent has only |
| 8  | reported sporadically if at all.  |
| 9  | SECOND CAUSE TO REVOKE PROBATION  |
| 10 | (Employer Notification)   |
| 11 | 12. At all times after the effective date of Respondent's probation, Condition No. 8              |
| 12 | stated:   |
| 13 | Notice to Employers. Respondent shall notify all present and prospective employers of the         |
| 14 | decision in Board Case No. CI 2002 24086 and the terms, conditions and restrictions imposed on    |
| 15 | respondent by the decision. Within 30 days of the effective date of this decision, and within 15  |
| 16 | days of respondent undertaking new employment, respondent shall cause their direct supervisor,    |
| 17 | pharmacist-in-charge and/or owner to report to the board in writing acknowledging the employer    |
| 18 | has read the decision in Board Case No. CI 2002 24086.  |
| 19 | If respondent works for or is employed by or through a pharmacy employment service,               |
| 20 | Respondent must notify his direct supervisor, pharmacist-in-charge, and/or owner at every         |
| 21 | pharmacy of the terms and conditions of the decision in Case No. CI 2002 24086 in advance of      |
| 22 | the respondent commencing work at each pharmacy. "Employment" within the meaning of this          |
| 23 | provision shall include any full-time, part-time, temporary, relief or pharmacy management        |
| 24 | service as a pharmacist, whether the Respondent is considered an employee or independent          |
| 25 | contractor.   |
| 26 |   |
| 27 | <sup>1</sup> Condition No. 8 in the original stipulation incorrectly identified the Board's case  |
| 28 | number as CI 2002 24086. The correct case number is 2669.   |
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PETITION TO REVOKE PROBATION

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| 1  | 13. Respondent's probation is subject to revocation in that he failed to comply with             |  |
|----|--|--|
| 2  | Probation Condition No. 8 in the following respects:   |  |
| 3  | a. Respondent failed to notify his employer (Medical Arts Pharmacy) of his                       |  |
| 4  | probationary status with the Board.  |  |
| 5  | b. Respondent failed to have his employer (Medical Arts Pharmacy) complete an                    |  |
| 6  | Employment Verification form within fifteen days of his undertaking employment at the            |  |
| 7  | pharmacy.  |  |
| 8  | THIRD CAUSE TO REVOKE PROBATION  |  |
| 9  | (Failure to Pay Board Costs)   |  |
| 10 | 14. At all times after the effective date of Respondent's probation, Condition No. 9             |  |
| 11 | stated:  |  |
| 12 | Reimbursement of Board Costs. Respondent shall pay to the Board its costs of                     |  |
| 13 | investigation and prosecution in the amount of \$25,000. Respondent shall make quarterly         |  |
| 14 | payments. If payment of \$25,000 is not made by the end of the three (3) year probation period,  |  |
| 15 | the probation term shall continue until such sum is paid in full.                                |  |
| 16 | The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to     |  |
| 17 | reimburse the Board its costs of investigation and prosecution.                                  |  |
| 18 | 15. Respondent's probation is subject to revocation because he has failed to make                |  |
| 19 | quarterly payments as required. Respondent has only paid \$450.00 to date.                       |  |
| 20 | FOURTH CAUSE TO REVOKE PROBATION   |  |
| 21 | (Failure to Pay Probation Monitoring Costs)  |  |
| 22 | 16. At all times after the effective date of Respondent's probation, Condition No. 10            |  |
| 23 | stated:  |  |
| 24 | Probation Monitoring Costs. Respondent shall pay the costs associated with probation             |  |
| 25 | monitoring as determined by the Board each and every quarter of probation. Such costs shall be   |  |
| 26 | payable to the Board at the end of each quarter of probation. Failure to pay such costs shall be |  |
| 27 | considered a violation of probation.   |  |
| 28 |  |  |
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|    | PETITION TO REVOKE PROBATION   |  |

| 17. Respondent's probation is subject to revocation because he has failed to pay                 |  |
|--|--|
| probation monitoring costs as required.  |  |
| FIFTH CAUSE TO REVOKE PROBATION  |  |
| (Notification of Employment)   |  |
| 18. At all times after the effective date of Respondent's probation, Condition No. 13            |  |
| stated:  |  |
| Notification of Employment/Mailing Address Change. Respondent shall notify the                   |  |
| Board in writing within 10 days of any change of employment. Said notification shall include the |  |
| reasons for leaving and/or the address of the new employer, supervisor or owner and work         |  |
| schedule if known. Respondent shall notify the Board in writing within ten days of a change in   |  |
| name, mailing address or phone number.   |  |
| 19. Respondent's probation is subject to revocation because he failed to notify the Board        |  |
| of the termination of his employment with Medical Arts Pharmacy, which began in September,       |  |
| 2008 and ended in March, 2010.   |  |
| 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 the probation that was granted by the Board of Pharmacy in Case No. AC               |  |
| 2669 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License     |  |
| No. RPH 47542 issued to Fred O. Gregorian;   |  |
| 2. Revoking or suspending Pharmacist License No. RPH 47542, issued to Fred O.                    |  |
| Gregorian;   |  |
| 3. Taking such other and further action as deemed necessary and proper.                          |  |
| DATED: 5/8/14 Urgina Deede   |  |
| Executive Officer<br>Board of Pharmacy   |  |
| Department of Consumer Affairs<br>State of California  |  |
| Complainant  |  |
| LA2013510070/51415179.doc  |  |
| 6<br>PETITION TO REVOKE PROBATION  |  |
|  |  |

## Exhibit A

**Decision and Order** 

Board of Pharmacy Case No. 2669