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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. 5204

12 **GARY CHIN**
13 **101 Arbusto Circle**
Sacramento, CA 95831

A C C U S A T I O N

14 **Pharmacist License No. RPH 32898**

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 ("Board"), Department of Consumer Affairs.

21 2. On or about August 9, 1979, the Board issued Pharmacist License Number RPH
22 32898 to Gary Chin ("Respondent"). Respondent's pharmacist license was in full force and
23 effect at all times relevant to the charges brought herein and will expire on December 31, 2014,
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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1 STATUTORY PROVISIONS

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

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

4 5. Code section 4300.1 states:

5 The expiration, cancellation, forfeiture, or suspension of a board-issued
6 license by operation of law or by order or decision of the board or a court of law, the
7 placement of a license on a retired status, or the voluntary surrender of a license by
8 a licensee shall not deprive the board of jurisdiction to commence or proceed with
9 any investigation of, or action or disciplinary proceeding against, the licensee or to
10 render a decision suspending or revoking the license.

9 6. Code section 4301 states, in pertinent part:

10 The board shall take action against any holder of a license who is guilty
11 of unprofessional conduct or whose license has been procured by fraud or
12 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
13 not limited to, any of the following:

13

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

15

16 (l) The conviction of a crime substantially related to the qualifications, functions,
17 and duties of a licensee under this chapter. The record of conviction of a violation of
18 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating
19 controlled substances or of a violation of the statutes of this state regulating controlled
20 substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In
21 all other cases, the record of conviction shall be conclusive evidence only of the fact that
22 the conviction occurred. The board may inquire into the circumstances surrounding the
23 commission of the crime, in order to fix the degree of discipline or, in the case of a
24 conviction not involving controlled substances or dangerous drugs, to determine if the
25 conviction is of an offense substantially related to the qualifications, functions, and duties
26 of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea
27 of nolo contendere is deemed to be a conviction within the meaning of this provision. The
28 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...

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1 **COST RECOVERY**

2 7. Code section 125.3 provides, in pertinent part, that a 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.

6 **DRUGS**

7 8. "Amphetamine" is a Schedule II controlled substance as designated by Health and
8 Safety Code section 11055, subdivision (d)(1).

9 9. "Methamphetamine" is a Schedule II controlled substance as designated by Health
10 and Safety Code section 11055, subdivision (d)(2).

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Violations of State Laws Regulating Controlled Substances)**

13 10. Respondent is subject to disciplinary action pursuant to Code section 4301,
14 subdivision (j), for unprofessional conduct, in that on or about November 12, 2013, and February
15 4, 2014, Respondent violated state laws regulating controlled substances, as follows:

16 a. On or about November 12, 2013, Sacramento Police Department officers contacted
17 Respondent at his residence. During a consensual search of Respondent's home, the officers
18 located approximately .20 grams of amphetamine and drug paraphernalia, commonly used to
19 smoke methamphetamine, in plain view in Respondent's bedroom. Respondent was charged with
20 possession of amphetamine and possession of drug paraphernalia, in violation of Health and
21 Safety Code sections 11377, subdivision (a), and 11364, respectively.

22 b. On or about February 4, 2014, at approximately 0243 hours, an officer with
23 Sacramento Police Department contacted Respondent as he was seated in his vehicle in a parking
24 lot. The officer conducted a records check on the vehicle, which showed that Respondent was
25 recently involved with methamphetamine. Respondent consented to a search of his person and
26 vehicle. The officer located a plastic baggie containing approximately 1.5 grams of
27 methamphetamine. Respondent was charged with possession of methamphetamine, in violation
28 of Health and Safety Code section 11377, subdivision (a).

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 11. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (I), based on a criminal conviction, in that on or about March 13, 2014, in the
5 Sacramento County Superior Court case entitled *People v. Gary Chin*, Case Number 14F00772,
6 Respondent pled nolo contendere to one count of violating Health and Safety Code section
7 1137(a) (possession of a controlled substance – Methamphetamine), a misdemeanor. The
8 circumstances of the crime are incorporated by reference in paragraph 10, subsection b, above.

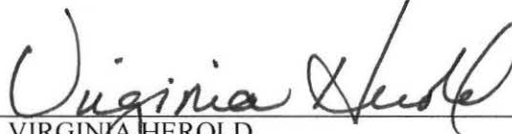
9 **PRAYER**

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

- 12 1. Revoking or suspending Pharmacist License Number RPH 32898, issued to Gary
13 Chin;
- 14 2. Ordering Gary Chin to pay the Board of Pharmacy the reasonable costs of the
15 investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: _____

4/24/15



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

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