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

12 In the Matter of the Accusation Against:

Case No. 5466

13 **DIANA MARIE GALES-ADAMS**  
14 **aka DIANA GALES ADAMS**  
15 PO Box 875254  
16 Los Angeles, CA 90087

**ACCUSATION**

17 Pharmacy Technician Registration No. TCH 110435  
18 Respondent.

19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs ("Board").  
23 2. On or about February 7, 2011, the Board issued Pharmacy Technician Registration  
24 No. TCH 110435 to Diana Marie Gales-Adams aka Diana Gales Adams ("Respondent"). The  
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges  
brought herein and will expire on January 31, 2017, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following  
3 laws. All section references are to the Business and Professions Code ("Code") unless otherwise  
4 indicated.

5 4. Section 4011 of the Code provides that "[t]he board shall administer and enforce this  
6 chapter [Pharmacy Law, (Business and Professions Code, Sec 4000 et seq.)] and the Uniform  
7 Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and  
8 Safety Code)."

9 5. Section 4300, subdivision (a), of the Code states, in pertinent part, that "[e]very  
10 license issued may be suspended or revoked."

11 6. Section 4300.1 of the Code states, in pertinent part:

12 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
13 operation of law or by order or decision of the board or a court of law, the placement of a license  
14 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
15 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
16 proceeding against, the licensee or to render a decision suspending or revoking the license."

17 **STATUTORY AND REGULATORY PROVISIONS**

18 7. Section 492 of the Code states, in pertinent part:

19 "Notwithstanding any other provision of law, successful completion of any diversion  
20 program under the Penal Code, or successful completion of an alcohol and drug problem  
21 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
22 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
23 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
24 division, from taking disciplinary action against a licensee or from denying a license for  
25 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
26 record pertaining to an arrest.

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1 "This section shall not be construed to apply to any drug diversion program operated by any  
2 agency established under Division 2 (commencing with Section 500) of this code, or any initiative  
3 act referred to in that division."

4 8. Section 4301 of the Code states, in pertinent part:

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

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

8 . . . .

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

12 "(g) Knowingly making or signing any certificate or other document that falsely represents  
13 the existence or nonexistence of a state of facts. . . ."

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

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

21 **COST RECOVERY**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

3 11. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),  
4 on the grounds of unprofessional conduct, in that Respondent committed acts involving moral  
5 turpitude, dishonesty, fraud, deceit, or corruption. The facts and circumstances are as follows:

6 a. On or about May 6, 2014, Respondent was working as a cashier at a Home Depot  
7 store and she stole a bag containing \$2,000 in cash. Loss prevention agents reviewed security  
8 camera video and on May 12, 2014, interviewed the Respondent. Respondent subsequently  
9 admitted stealing the money.

10 b. On May 14, 2014 a misdemeanor complaint was filed in the Superior Court of  
11 California, County of Los Angeles and charged the Respondent with one count of violating Penal  
12 Code section 487(a) [theft exceeding \$950] and one count of violating Penal Code section 508  
13 [embezzlement from employer]. On July 11, 2014, as part of a negotiated plea, the criminal  
14 complaint was amended by interlineation to add one misdemeanor count of violating Penal Code  
15 section 602, subdivision (k) [trespass]. Respondent then entered a plea of nolo contendere to  
16 violating Penal Code section 602, subdivision (k) [trespass], in the criminal proceeding entitled  
17 *The People of the State of California v. Diana Gales Adams* (Super. Ct. L.A. County, 2014, No.  
18 4CA14089). The court placed Respondent on a 12 month diversion program, ordered her to  
19 perform 50 hours of community service, and ordered her to stay 100 yards away from the Home  
20 Depot store. On or about July 13, 2015, after completing the diversion program, the court  
21 dismissed the case pursuant to Penal Code section 1385.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Knowingly Made a False Statement of Fact)**

24 12. Respondent is subject to disciplinary action under Code section 4302, subdivision (g),  
25 on the grounds of unprofessional conduct, in that on or about November 3, 2014, Respondent  
26 knowingly made or signed any certificate or other document that falsely represents the existence  
27 or nonexistence of a state of facts. On the Board of Pharmacy's license renewal form,  
28 Respondent failed to disclose her July 11, 2014 criminal conviction and she answered "No" on

1 the "Request for Renewal of California Pharmacy Technician Registration" to the following  
2 question:

3 "Since you last renewed your license, have had any license discipline by a  
4 government agency or other disciplinary body; or, have you have been convicted of  
5 any crime in any state, the USA and its territories, military court or a foreign county?  
6 PLEASE READ INSTRUCTIONS BEFORE ANSWERING."

7 "INSTRUCTIONS: Check the box to "YES" if, since your last renewal, you  
8 have had any license disciplined by a government agency or have you been convicted  
9 or plead guilty to any crime. "Conviction" includes a plea of no contest and any

10 conviction that has been set aside or deferred pursuant to Sections 1000 or 1203.4 of  
11 the Penal Code, including infractions, misdemeanor, and felonies. You do not need to  
12 report a conviction for an infraction with a fine of less than \$300 unless the infraction  
13 involved alcohol or controlled substances. You must, however, disclose any  
14 convictions in which you entered a plea of no contest and any convictions that were  
15 subsequently set aside pursuant or deferred pursuant to Sections 1210.1 or 1203.4 of  
16 the Penal Code. "License" includes permits, registrations, and certificates.  
17 "Discipline" includes, but is not limited to, suspension, revocation, voluntary  
18 surrender, probation, or any other restriction."

19 "Check the box next to "NO" if since your last renewal you have not had a  
20 license disciplined by another government agency and you have not been convicted of  
21 a crime."

22 Complainant refers to and by this reference incorporates the allegations set for above in  
23 paragraphs 11, as though set forth fully.

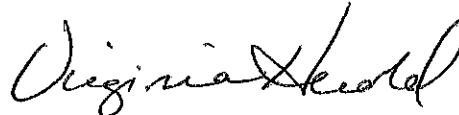
24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
26 and that following the hearing, the Board issue a decision:

- 27 1. Revoking or suspending Pharmacy Technician Registration No. TCH 110435, issued  
28 to Diana Marie Gales-Adams aka Diana Gales Adams;
2. Ordering Diana Marie Gales-Adams to pay the Board the reasonable costs of the  
investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

4/15/16



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

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