

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 4464

**ANISH GORE**  
2644 E. Denise Avenue  
Orange, CA 92867

**DEFAULT DECISION AND ORDER**

**Pharmacy Technician Registration  
No. TCH 85422**

[Gov. Code, §11520]

Respondent.

**FINDINGS OF FACT**

1. On or about May 9, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4464 against Anish Gore (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 13, 2008, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 85422 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4464 and will expire on November 30, 2013, unless renewed.

3. On or about May 29, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4464, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100,

1 is required to be reported and maintained with the Board. Respondent's address of record was  
2 and is: 2644 E. Denise Avenue, Orange, CA 92867.

3 4. Service of the Accusation was effective as a matter of law under the provisions of  
4 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
5 124.

6 5. The certified U. S. Postal delivery was received and signed for on May 30, 2013.

7 6. Government Code section 11506 states, in pertinent part:

8 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
9 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
10 of the accusation not expressly admitted. Failure to file a notice of defense shall  
11 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
12 may nevertheless grant a hearing.

13 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
14 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
15 4464.

16 8. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at the  
18 hearing, the agency may take action based upon the respondent's express admissions  
19 or upon other evidence and affidavits may be used as evidence without any notice to  
20 respondent.

21 9. Pursuant to its authority under Government Code section 11520, the Board finds  
22 Respondent is in default. The Board will take action without further hearing and, based on the  
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
25 file at the Board's offices regarding the allegations contained in Accusation No. 4464, finds that  
26 the charges and allegations in Accusation No. 4464, are separately and severally, found to be true  
27 and correct by clear and convincing evidence.

28 10. Taking official notice of its own internal records, pursuant to Business and  
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
and Enforcement is \$1,667.50 as of July 2, 2013.

///

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent Anish Gore has subjected his  
3 Pharmacy Technician Registration No. TCH 85422 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
6 Registration based upon the following violations alleged in the Accusation which are supported  
7 by the evidence contained in the Default Decision Evidence Packet in this case:

8 a. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)  
9 and (o), for being in possession of the controlled substances and dangerous drugs Alprazolam and  
10 Diazepam without a prescription in violation of section 4060 of the Code.

11 **ORDER**

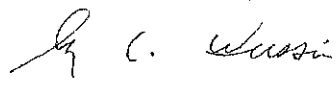
12 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 85422, heretofore  
13 issued to Respondent Anish Gore, is revoked.

14 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
15 written motion requesting that the Decision be vacated and stating the grounds relied on within  
16 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
17 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

18 This Decision shall become effective on October 28, 2013.

19 It is so ORDERED ON September 27, 2013.

20 BOARD OF PHARMACY  
21 DEPARTMENT OF CONSUMER AFFAIRS  
22 STATE OF CALIFORNIA

23   
24 By \_\_\_\_\_  
25 STANLEY C. WEISSER  
26 Board President

27 SD2012704389

28 Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
4 State Bar No. 132645  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2105  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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. 4464

12 **ANISH GORE**  
2644 E. Denise Avenue  
13 Orange, CA 92867

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

14 **Pharmacy Technician Registration**  
15 **No. TCH 85422**

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 August 13, 2008, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 85422 to Anish Gore (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on November 30, 2013, unless renewed.

26 ///

27 ///

28 ///

1 JURISDICTION

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

5 4. Section 4300(a) of the Code states that "[e]very license issued may be suspended or  
6 revoked."

7 5. Section 118, subdivision (b), of the e Code provides that the suspension, expiration,  
8 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
9 disciplinary action during the period within which the license may be renewed, restored, reissued  
10 or reinstated.

11 STATUTORY AND REGULATORY PROVISIONS

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to evaluate  
14 the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation  
18 furnished by the applicant or licensee.

19 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
20 revoke a license on the ground that the licensee has been convicted of a crime substantially  
21 related to the qualifications, functions, or duties of the business or profession for which the  
22 license was issued.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

8. Section 492 of the Code states:

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

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

9. Section 493 of the Code states:

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

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

10. 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:

....

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

....

(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.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

11. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

12. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, 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, or a physician assistant to order his or her own stock of dangerous drugs and devices.

13. Title 16, California Code of Regulations, section 1769, states:

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been 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:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

///  
///



1 14. Title 16, California Code of Regulations, section 1770, states:

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

6 **COST RECOVERY**

7 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
8 administrative law judge to direct a licensee found to have committed a violation or violations of  
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
10 enforcement of the case.

11 **DRUGS**

12 16. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code  
13 section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business and Professions  
14 Code section 4022.

15 17. Diazepam is a Schedule IV controlled substance pursuant to Health and Safety Code  
16 section 11057, subdivision (d)(9), and a dangerous drug pursuant to Business and Professions  
17 Code section 4022.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct – Illegal Possession of Controlled Substance – Alprazolam and  
20 Diazepam – on November 30, 2011)**

21 18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and  
22 (o) of the Code in that Respondent was in possession of the controlled substances and dangerous  
23 drugs Alprazolam and Diazepam without a prescription in violation of section 4060 of the Code.

24 The circumstances are as follows:

25 19. On November 30, 2011, at approximately 4:00 p.m., Los Angeles Police Department  
26 Officers observed a vehicle driving eastbound on Temple Avenue with a front tinted window and  
27 without a front license plate, in violation of the Vehicle Code. Officers performed a traffic stop  
28

1 of the vehicle and, upon approaching the vehicle, smelled a strong odor of marijuana coming  
2 from within the vehicle. Three occupants of the vehicle were detained pending a narcotics  
3 investigation. Upon searching the vehicle, officers found numerous plastic containers and  
4 marijuana pipes, and plastic baggies containing controlled substances, which Respondent claimed  
5 ownership of. Respondent was arrested for unlawful possession of controlled substances and  
6 possession of marijuana for sale, and booked at the Los Angeles County Jail.

7 20. As a result of the arrest, on or about April 9, 2012, in a criminal proceeding entitled  
8 *People of the State of California vs. Anish Gore*, in the Superior Court of California, County of  
9 Los Angeles, in Case Number 2PK00728, Respondent pled guilty to violating Health and Safety  
10 Code section 11377 (possession of controlled substances), a misdemeanor, to wit: Alprazolam  
11 and Diazepam. As a result of a plea agreement, one count of violating Health and Safety Code  
12 section 11377 was dismissed.

13 21. The Court deferred entry of judgment for 24 months and placed Respondent on drug  
14 diversion pursuant to Penal Code section 1000. The Court ordered Respondent to pay various  
15 fines and fees, cooperate with a program in a plan for drug education, not use or possess  
16 narcotics, dangerous or restricted drugs without a prescription, not associate with drug users or  
17 sellers, submit person and property to search and seizure, and not commit similar offense during  
18 probation period.

19 **PRAYER**

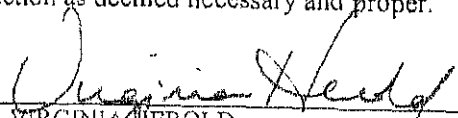
20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
21 and that following the hearing, the Board of Pharmacy issue a decision:

- 22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 85422,  
23 issued to Anish Gore;
- 24 2. Ordering Anish Gore to pay the Board of Pharmacy the reasonable costs of the  
25 investigation and enforcement of this case, pursuant to Business and Professions Code section  
26 125.3;
- 27 ///
- 28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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*

SD2012704389  
70680287.docx