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

12 In the Matter of the Accusation Against:

Case No. 3169

13 SARAH LYNN MONTAGUE
1359 E. 35th Street
14 San Bernardino, CA 92404

A C C U S A T I O N

15 Pharmacy Technician Registration No.
TCH 39166

16 Respondent.
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19 Complainant alleges:

20 PARTIES

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about August 21, 2001, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 39166 to Sarah Lynn Montague (Respondent). The
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on May 31, 2009, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws of the Business and Professions
4 Code (Code).

5 4. Section 4300(a) of the Code states in pertinent part that every license issued may
6 be suspended or revoked.

7 5. 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
9 unprofessional conduct or whose license has been procured by fraud or
10 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
11 is not limited to, any of the following:

12

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

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

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

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

27 6. Section 4021 of the Code states “‘Controlled substance’ means any
28 substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and
Safety Code.”

 7. 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.

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

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

7 8. Section 4026 of the Code states that "'Furnish' means to supply by any
8 means, by sale or otherwise."

9 9. Section 4059(a) of the Code states, in pertinent part, that a person may not
10 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
11 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

12 10. Section 4060 of the Code provides, in pertinent part, that no person shall
13 possess any controlled substance, except that furnished to a person upon the prescription of a
14 physician, dentist, podiatrist, or veterinarian.

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

19 12. Health and Safety Code section 11173(a) provides, in pertinent part, that
20 no person shall obtain, or attempt to obtain controlled substances by fraud, deceit,
21 misrepresentation, or subterfuge.

22 13. Health and Safety Code section 11173(b) provides, in pertinent part, that
23 no person shall make a false statement in any prescription, order, report, or record, required by
24 this division.

25 DRUGS

26 14. At all times material herein, Norco was and is a trade name for the generic
27 drug hydrocodone with acetaminophen which is designated by Health and Safety Code section
28 11056(e)(4) as a narcotic drug and a Schedule III controlled substance, and by Business and
Professions Code section 4022 as a dangerous drug, and is used as a narcotic analgesic in the
relief of pain.

1 15. At all times material herein, Xanax was and is a trade name for the generic
2 drug alprazolam which is designated by Health and Safety Code section 11057(d)(1) as a
3 Schedule IV controlled substance, and by Business and Professions Code section 4022 as a
4 dangerous drug, and is used in the treatment of anxiety.

5 FACTS

6 16. In or about January 2006 through July 2006, Respondent and her
7 roommate, L.A. (TCH L.A.), were both employed as pharmacy technicians at Sav-On Drugs,
8 located in Palm Desert, California.

9 17. It was discovered that Respondent and TCH L.A. were fraudulently
10 authorizing prescription refills for each other while they were working at Sav-Ons Drugs.

11 18. Respondent fraudulently authorized the following prescription refills for
12 TCH L.A.:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
3/09/06	1165120	Hydrocodone/APAP 5-325	100
3/30/06	1165120	Hydrocodone/APAP 5-325	100

16 19. TCH L.A. fraudulently authorized the following prescriptions and refills
17 for Respondent:

<u>Date</u>	<u>Rx No.</u>	<u>Drug</u>	<u>Quantity</u>
1/06/06	1145324	Alprazolam 0.25 mg	30
3/20/06	1168730	Alprazolam 0.25 mg	60
4/21/06	1168730	Alprazolam 0.25 mg	60
6/30/06	1197903	Alprazolam 0.25 mg	60

23 20. Respondent admitted that she picked up TCH L.A.'s prescriptions from
24 Sav-On Drugs and that she would occasionally use some of TCH L.A.'s prescription medication
25 for herself.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Furnishing Dangerous Drugs Without a Prescription)**

3 21. Respondent is subject to disciplinary action under section 4301(j) in
4 conjunction with section 4059(a) in that she furnished dangerous drugs without a valid
5 prescription from a physician, dentist, podiatrist, optometrist, veterinarian or naturopathic doctor
6 to TCH L.A. when she fraudulently authorized prescription refills for TCH L.A. as more
7 particularly alleged in paragraph 18 above and incorporated herein by reference.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct: Obtaining Controlled Substances by Fraud, Subterfuge)**

10 22. Respondent is subject to disciplinary action under section 4301(j) in
11 conjunction with H&S Code section 11173(a) for obtaining controlled substances by fraud,
12 deceit, misrepresentation or subterfuge, when Respondent and TCH L.A. fraudulently authorized
13 prescriptions for each other that had not been prescribed or authorized by a doctor and as more
14 particularly alleged in paragraphs 18 through 20 above and incorporated herein by reference.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Possession of Controlled Substances Without a Prescription)**

17 23. Respondent is subject to disciplinary action under section 4301(j) in
18 conjunction with section 4060 in that she possessed controlled substances without a valid
19 prescription or authorization, as more particularly alleged in paragraphs 18 through 20 above and
20 incorporated herein by reference.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct: Act of Dishonesty, Fraud and Deceit)**

23 24. Respondent is subject to disciplinary action under section 4301(f) for acts
24 of dishonesty, fraud or deceit in that she unlawfully prescribed controlled substances for TCH
25 L.A. and conspired with TCH L.A. in order to gain possession of controlled substances as more
26 particularly alleged in paragraphs 18 and 20 above and incorporated herein by reference.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct: Signing Documents that
3 Falsely Represents the Existence of a State of Facts)

4 25. Respondent is subject to disciplinary action under section 4301(g) in
5 conjunction with H&S Code section 11173(b) for unprofessional conduct in that she knowingly
6 made and signed documents that falsely represented the existence of facts when she fraudulently
7 authorized prescription refills for TCH L.A. as more particularly alleged in paragraph 18 above
8 and incorporated herein by reference.

9 **SIXTH CAUSE FOR DISCIPLINE**

10 (Conspiring to Falsify Prescriptions)

11 26. Respondent is subject to disciplinary action under section 4301(o) for
12 conspiracy to violate the provisions of the regulations governing pharmacy by conspiring with
13 TCH L.A. to falsify prescriptions and refills for controlled substances without prescriber
14 authorization as more particularly alleged in paragraphs 18 through 20 above and incorporated
15 herein by reference.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Technician Registration Number TCH
20 39166, issued to Sarah Lynn Montague.

21 2. Ordering Sarah Lynn Montague to pay the Board of Pharmacy the
22 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
23 Professions Code section 125.3; and

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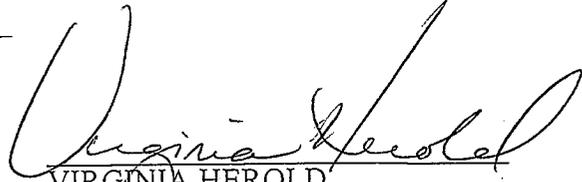
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/22/08



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

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