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

11 In the Matter of the Accusation Against:

Case No. 3245

12 **CHELSEA T. VANDERWIEL**
13 11430 Columbia Village Dr.
Sonora, California 95370

A C C U S A T I O N

14 Original Pharmacy Technician Registration No.
15 TCH 25777

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about May 13, 1998, the Board of Pharmacy (Board) issued
24 Original Pharmacy Technician Registration Number TCH 25777 (License) to Chelsea T.
25 Vanderwiel (Respondent). The License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on June 30, 2009, unless renewed.

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1 statutes of this state regulating controlled substances or dangerous drugs shall be
2 conclusive evidence of unprofessional conduct. In all other cases, the record of
3 conviction shall be conclusive evidence only of the fact that the conviction
4 occurred. The board may inquire into the circumstances surrounding the
5 commission of the crime, in order to fix the degree of discipline or, in the case of
6 a conviction not involving controlled substances or dangerous drugs, to determine
7 if the conviction is of an offense substantially related to the qualifications,
8 functions, and duties of a licensee under this chapter. A plea or verdict of guilty
9 or a conviction following a plea of nolo contendere is deemed to be a conviction
10 within the meaning of this provision. The board may take action when the time
11 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
12 or when an order granting probation is made suspending the imposition of
13 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
14 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
15 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
16 information, or indictment.

17

18 (o) Violating or attempting to violate, directly or indirectly, or assisting in
19 or abetting the violation of or conspiring to violate any provision or term of this
20 chapter or of the applicable federal and state laws and regulations governing
21 pharmacy, including regulations established by the board.

22

23 (p) Actions or conduct that would have warranted denial of a license.

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25 6. Code section 4022 provides, in pertinent part,

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

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

7. 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, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, 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, or naturopathic doctor pursuant to Section 3640.5, or
a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
(iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.
This section shall not apply to the possession of any controlled substance by a
manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
optometrist, veterinarian, naturopathic doctor, 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

1 practitioner, a physician assistant, or a naturopathic doctor, to order his or her
2 own stock of dangerous drugs and devices.

3 8. Health and Safety Code section 11350, subdivision (a), provides:

4 Except as otherwise provided in this division, every person who possesses
5 ... (2) any controlled substance classified in Schedule III, IV, or V which is a
6 narcotic drug, unless upon the written prescription of a physician, dentist,
7 podiatrist, or veterinarian licensed to practice in this state, shall be punished by
8 imprisonment in the state prison.

9 **COST RECOVERY**

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

14 **DRUGS**

15 10. "Norco 10" is a compound consisting of 10 mg. hydrocodone bitartrate
16 also known as dihydrocodeinone, a Schedule III narcotic controlled substance as designated by
17 Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet, and is a
18 dangerous drug within the meaning of Code section 4022, in that under federal law it requires a
19 prescription.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Corrupt Acts - Stealing Hydrocodone-containing Medications)

22 11. Respondent is subject to disciplinary action under Code section 4301,
23 subd. (f) in that Respondent conducted acts involving moral turpitude, dishonesty, fraud, deceit,
24 or corruption. The circumstances are as follows:

25 12. On or about August 10, 2007, to October 4, 2007, on multiple occasions,
26 all the exact dates which are only known to Respondent, Respondent fraudulently and illegally
27 stole approximately 1000 tablets of Norco 10 from Sierra Conservation Pharmacy, while on duty
28 as a registered pharmacy technician.

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FOURTH CAUSE FOR DISCIPLINE

(Actions Warranting Denial of License)

17. Respondent is subject to disciplinary action under Code section 4301, subd. (p) in that Respondent engaged in conduct that would have warranted the denial of her License. The circumstances are detailed above in paragraphs 15 and 16.

PRAYER

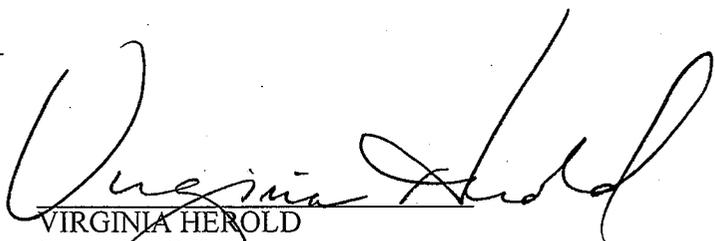
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 25777, issued to Chelsea T. Vanderwiel.

2. Ordering Chelsea T. Vanderwiel to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/10/09



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

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