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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. 3325

13 **JOSEPH L. SALAS**
14 **15369 Daybreak Lane**
15 **Fontana, CA 92337**
16 **Pharmacy Technician Registration No. TCH**
17 **41750**

A C C U S A T I O N

18 Respondent.

19 Complainant alleges:

20 PARTIES

21 1. Virginia K. 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 March 26, 2002, the Board of Pharmacy (Board) issued Pharmacy
24 Technician Registration Number TCH 41750 to Joseph L. Salas (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on January 31, 2010, unless renewed.

27 JURISDICTION

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

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1 original prescription. No prescription for any dangerous drug that is a controlled substance may
2 be designated refillable as needed.”

3 8. Health and Safety Code section 11158, subdivision (a), states, in pertinent part:
4 “Except as provided in Section 11159 or when dispensed directly to an ultimate user by a
5 practitioner other than a pharmacist or pharmacy, no controlled substance classified in Schedule
6 III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter.”

7 CONTROLLED SUBSTANCE/DANGEROUS DRUG

8 9. Norco (trade name for generic Hydrocodone/APAP) is a Schedule III controlled
9 substance as designated by Health and Safety Code section 11056, subdivisions (a) and (e), and is
10 a dangerous drug as defined in section 4022.

11 10. Section 4022 states, in pertinent part:

12 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
13 humans or animals, and includes the following:

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

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

19 COST RECOVERY PROVISION

20 11. Section 125.3 provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 FIRST CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct/Act Involving Moral Turpitude, Dishonesty, Fraud or Deceit)

26 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), for
27 committing acts involving moral turpitude, dishonesty, fraud or deceit. The circumstances are as
28 follows:

1 a. On numerous occasions, while employed as a pharmacy technician at Kaiser
2 Permanente Pharmacy, Respondent processed and filled or re-filled fake prescriptions for Norco
3 (Hydrocodone/APAP) [hereafter referred to as "the drug"], and then dispensed and furnished the
4 drug to a relative of an acquaintance.

5 b. As part of Respondent's dishonest and fraudulent scheme to divert the drug from the
6 pharmacy, he engaged in the following acts: Respondent accessed the pharmacy computer
7 system, using another employee's access code. He filled fake prescriptions for the drug without
8 authorization from a provider. He would put the prescription drug in a bag and hand it someone
9 at the sales window. He would find a random sales slip that had been generated for some other
10 customer's prescription, and ask an employee at the cash register to ring up the fake prescription
11 using that sales slip. After the sale, Respondent would delete the fake prescription from the
12 pharmacy computer system.

13 SECOND CAUSE FOR DISCIPLINE

14 (Furnishing a Dangerous Drug/Controlled Substance Without Authorization)

15 13. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
16 (o), section 4059, subdivision (a), and section 4063, in conjunction with Health and Safety Code
17 section 11158, subdivision (a), for furnishing a dangerous drug/controlled substance without a
18 prescription or authorization from a prescriber. Complainant refers to and incorporates all the
19 allegations set forth in paragraphs 12.a and 12.b, inclusive, as though set forth fully.

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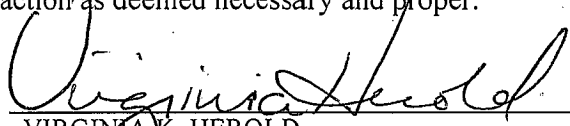
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 41750, issued to Joseph L. Salas.
2. Ordering Joseph L. Salas to pay the Board 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: 10/15/09



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

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