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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:

13 **LEONARD E. SERRATOS**
495 E. 3rd Street, K14
San Bernardino, CA 92410

14 Pharmacy Technician Registration No. TCH 60575

15 Respondent.

Case No. 3394

ACCUSATION

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about January 13, 2005, the Board of Pharmacy (Board) issued Pharmacy
22 Technician Registration No. TCH 60575 to Leonard E. Serratos (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on May 31, 2010, unless renewed.

25 **JURISDICTION**

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

STATUTORY REGULATIONS

1
2 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
3 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
4 action during the period within which the license may be renewed, restored, reissued or
5 reinstated.

6 5. Section 4022 [added by Stats.1996, c 890 (A.B. 2802), former § 4211], provides that
7 a drug that can be lawfully dispensed only on prescription is a dangerous drug.

8 6. Section 4059 provides that a person may not furnish any dangerous drug, except
9 pursuant to a valid prescription.

10 7. Section 4060 provides that no person shall possess any controlled substance, except
11 that furnished to a person upon the issuance of a valid prescription.

12 8. Section 4063 states:

13 “No prescription for any dangerous drug or dangerous device may be refilled except upon
14 authorization of the prescriber. The authorization may be given orally or at the time of giving the
15 original prescription. No prescription for any dangerous drug that is a controlled substance may
16 be designated refillable as needed.”

17 9. Section 4300 states that “[e]very license issued may be suspended or revoked.”

18 10. Section 4301 states, in pertinent part:

19 “The board shall take action against any holder of a license who is guilty of unprofessional
20 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
21 Unprofessional conduct shall include, but is not limited to, any of the following:

22

23 “(d) The clearly excessive furnishing of controlled substances in violation of subdivision
24 (a) of Section 11153 of the Health and Safety Code.

25
26 “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
27 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
28 whether the act is a felony or misdemeanor or not.

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

3

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

6

7 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by
10 the board or by any other state or federal regulatory agency. . . ."

11 11. Health and Safety Code section 11153, subdivision (a), states in pertinent part that
12 "[a] prescription for a controlled substance shall only be issued for a legitimate medical purpose
13 by an individual practitioner acting in the usual course of his or her professional practice."

14 **STATUTORY REGULATIONS**

15 12. California Code of Regulations, title 16, section 1770, states:

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

22 **COST RECOVERY**

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

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

14. Ambien, a brand name for zolpidem tartrate, a nonbarbiturate hypnotic, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(32), and is categorized as a dangerous drug pursuant to section 4022.

15. Klonopin, a brand name for clonazepam, is an anti-anxiety benzodiazepine, and a Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(7) and is categorized as a dangerous drug pursuant to section 4022.

16. Xenical, a brand name of orlistat, is used to treat obesity and a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(False Documents)

17. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (f), on the grounds of unprofessional conduct, in that on or between January 6, 2008, and June 3, 2008, while employed as a pharmacy technician, Respondent knowingly prepared false pharmacy records and / or represented false statements of facts. On or between April 3, 2007, and June 4, 2008, Respondent worked as a pharmacy technician at Kaiser Permanente, Kaiser Foundation Hospital Pharmacy, Baldwin Park, California (Kaiser, Baldwin Park). Respondent fraudulently added refills and quantities to prescriptions (Rx) after being reviewed by the pharmacist for future refills. Respondent deleted prescription dispensing records to obtain early additional refills. Respondent manipulated his Rx benefits by entering formulary exceptions. Respondent created false prescriptions. The created false hospital pharmacy records are as follows:

a. Rx 516894835, Klonopin 0.5mg

(1) On or about January 6, 2008, Rx 516894835 was authorized for brand name Klonopin 0.5mg, quantity 90, one time fill on January 6, 2008.

(2) On or about January 7, 2008, Respondent received 90 Klonopin 0.5mg.

(3) On or about January 7, 2008, after fill and receipt, Respondent altered in the computer without provider authorization the Rx's number of refills to one (1) refill.

1 (4) On or about January 30, 2008, Respondent added an additional refill without provider
2 authorization.

3 (5) On or about February 1, 2008, Respondent altered the expiration date from
4 January 31, 2008 to June 30, 2008.

5 (6) For Rx 516894835, Respondent altered the Rx adding four (4) additional refills
6 without provider authorization, and created false hospital pharmacy records.

7 b. Rx 516917194, Klonopin 0.5mg

8 (1) On or about January 31, 2008, Rx 516917194 was authorized for brand name
9 Klonopin 0.5mg, quantity 180, with one (1) refill.

10 (2) On or about January 31, 2008, Respondent received 180 Klonopin 0.5mg.

11 (3) On or about January 31, 2008, after fill and receipt, Respondent added an additional
12 refill, entered a formulary exception code, and altered his benefits without provider authorization.

13 (4) On or about February 13, 2008, Respondent increased the quantity from 180 to 300
14 tablets, changed the days supply from 60 to 100 days supply, and added an additional refill of the
15 prescription without provider authorization.

16 (5) On or about February 13, 2008, Respondent received 300 Klonopin 0.5mg, 120
17 tablets more than authorized.

18 (6) On or about February 13, 2008, Respondent changed the quantity from 300 to 180
19 after the Rx label for quantity 300 was generated to give the perception that he had only filled 180
20 for the authorized refill. Thereafter Respondent continued to alter the prescription quantity
21 multiple times and finally concluded at 120 filled.

22 (7) For Rx 516917194, Respondent altered the Rx quantities multiple times, received 120
23 Klonopin 0.5mg without authorization and created false hospital pharmacy records.

24 c. Rx 516977367, Xenical 120mg

25 (1) On or about April 10, 2008, without an originating Rx paper trail, Respondent entered
26 a Rx for himself for Xenical 120mg, quantity 90. Respondent entered the Rx using the name of a
27 pediatrician provider who denied treating Respondent, and entered a formulary exception code
28 altering his benefits for this medication without authorization.

1 (2) On or about April 10, 2008, Respondent received 90 Xenical 120mg without
2 authorization.

3 (3) On or about April 10, 2008, after fill and receipt, Respondent changed the number of
4 refills from zero "0" to "PRN" (as needed).

5 (4) On or about April 16, 2008, Respondent received 270 Xenical without authorization.

6 (5) On or about May 27, 2008, Respondent received 90 Xenical without authorization.

7 (6) For Rx 516977367, Respondent entered a false Rx, edited the false Rx, received 450
8 Xenical 120mg without authorization, falsified his benefit records and created false hospital
9 pharmacy records.

10 d. Rx 516987035, Ambien 10mg

11 (1) On or about April 24, 2008, Rx 516987035 was authorized for Zolpidem
12 (Ambien) 10mg, quantity 30, with two (2) refills.

13 (2) On or about April 24, 2008, Respondent changed the quantity from 30 to 100 and the
14 days supply from 30 to 100 days supply, entered a formulary exception for brand name
15 medication and altered his benefits without proper authorization.

16 (3) On or about April 24, 2008, Respondent received 100 Zolpidem Tartrate
17 (Ambien) 10mg, 40 tablets more than authorized.

18 (4) On or about May 13, 2008, Respondent requested a Rx change to the authorizing
19 provider for Ambien CR 12.5 mg.

20 (5) On or about May 29, 2008, the provider denied the change request, and the Rx
21 expired.

22 (6) On June 2, 2008, Respondent removed the denial comment for the Rx and changed
23 the expiration date from May 29, 2008 to September 30, 2008 without provider authorization.
24 Thereafter, Respondent changed the quantity from 100 to 30 for the first fill to give a perception
25 that he only received 30 Ambien 10mg on April 24, 2008.

26 (7) On or about June 2, 2008, Respondent received 50 Ambien 10mg, 20 tablets more
27 than authorized.

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1 (8) For Rx 516987035, Respondent altered the quantity, received 60 Ambien 10mg
2 without authorization, falsified his benefit records, and created false hospital pharmacy records.

3 e. Rx 292638659, Klonopin 1mg

4 (1) On or about May 23, 2008, Rx 292638659 was authorized for generic clonazepam
5 1mg, quantity 60, with two (2) refills.

6 (2) On or about May 23, 2008, Respondent received 60 generic clonazepam 1mg from a
7 Kaiser, West Covina Pharmacy.

8 (3) On or between May 26, 2008 and May 30, 2008, Respondent was under a doctor's
9 release order from work and not scheduled to work.

10 (4) On or about May 27, 2008, at 1:30 am, Respondent processed his second refill for this
11 Rx after he explained to the on-duty pharmacist that he had forgotten his wallet in his employee
12 locker.

13 (5) On or about May 27, 2008, Respondent deleted the first fill for this RX and reversed
14 the sales register transaction from West Covina Pharmacy, changed the original quantity from 60
15 to 300 tablets and days' supply from 30 to 100 without provider authorization.

16 (6) On or about May 27, 2008, Respondent received 300 clonazepam 1mg, 300 tablets
17 more than authorized.

18 (7) On or about June 2, 2008, Respondent deleted the May 27, 2008 fill for 300
19 clonazepam 1mg.

20 (8) On or about June 2, 2008, Respondent changed the Rx quantity from 300 to 200,
21 changed the product from generic clonazepam 1mg to brand name Klonopin 1mg, and altered his
22 benefits by entering a formulary exception without provider authorization.

23 (9) On or about June 3, 2008, the special order of brand name Klonopin arrived and
24 Respondent's Rx modification was discovered.

25 (10) For Rx. 292638659, Respondent altered the quantity, twice deleted sales receipts,
26 changed the product from generic to brand name, altered his benefits, altered his prescription
27 history for filled amounts and created false hospital pharmacy records.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

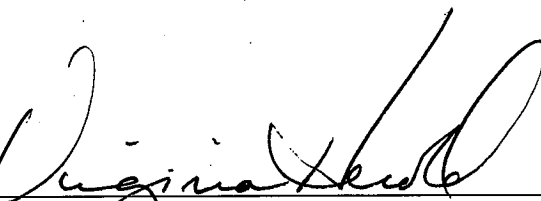
3 21. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (f), on the grounds of unprofessional conduct, in that on or between January 6, 2008,
5 and June 3, 2008, while employed as a pharmacy technician at Kaiser, Baldwin Park, Respondent
6 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant
7 refers to and by this reference incorporates the allegations set forth above in paragraphs 17 - 20,
8 inclusive, as though set forth fully.

9 **PRAYER**

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

- 12 1. Revoking or suspending Pharmacy Technician Registration No. TCH 60575, issued
13 to Respondent;
- 14 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
15 enforcement of this case, pursuant to section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18
19 DATED: 10/27/09



20 VIRGINIA HEROLD
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 Complainant

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