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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. 3398

12 **JENNIFER D. GILL**

13 **578 Grape Street, Apt. B**
14 **El Cajon, CA 92019**

15 **Pharmacy Technician Registration No. TCH**
16 **36591**

A C C U S A T I O N

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about February 21, 2001, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 36591 to Jennifer D. Gill (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on January 31, 2011, unless renewed.

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JURISDICTION

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

4. Section 4300(a) of the Code states:

Every license issued may be suspended or revoked.

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

STATUTORY PROVISIONS

6. Section 4059 of the Code states:

(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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.

8. 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:

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

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

....
(j) The violation of any of the statutes of this state, of any other state, or of the United State 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.

9. Section 4324 of the Code states:

(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

10. Health and Safety (H&S) Code section 11158 states:

(a) Except as provided in Section 11159 or in subdivision (b) of this section, no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter.

11. H&S Code section 11173(a) states in pertinent part that no person shall obtain a controlled substance by fraud, deceit, subterfuge or concealment of a material fact.

12. H&S Code section 11350(a) states in pertinent part that every person who possesses any controlled substance without a written prescription of a physician, dentist, podiatrist, or

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1 veterinarian licensed to practice in this state, shall be punished by imprisonment in the state
2 prison.

3 COST RECOVERY

4 13. Code section 123.5 provides that the Board may request the administrative law
5 judge to direct any licensee found to have committed a violation or violations of the licensing act
6 to pay the Board a sum not to exceed the reasonable costs of investigation and enforcement of the
7 case, including charges imposed by the Attorney General. Under section 125.3(c), a certified
8 copy of the actual costs or a good faith estimate of costs where actual costs are not available,
9 including investigative and enforcement costs and charges of the Attorney General up to the date
10 of the hearing, signed by the designated representative of the entity bringing the proceeding shall
11 be *prima facie* evidence of the reasonable costs of investigation and prosecution of the case.

12 DRUG

13 14. Hydrocodone/Acetaminophen (APAP) is a narcotic Schedule III controlled substance,
14 pursuant to H&S Code section 11056(e)(4) and is used to relieve moderate to severe pain.

15 FACTS

16 15. On or about April 9, 2001, Respondent began working as a pharmacy technician at
17 Kaiser Permanente Pharmacy #220, located in San Marcos, California. Beginning on September
18 7, 2006, Respondent had a lawful prescription for Hydrocodone/APAP 10-325 with 5 authorized
19 refills. Respondent received lawful prescriptions for Hydrocodone/APAP 10-325 through
20 September 21, 2007. In November 2007, Respondent began manipulating the Kaiser Pharmacy
21 computer system in order to illegally obtain controlled substances for her personal use.
22 Respondent changed, altered and created prescriptions for herself for Hydrocodone/APAP 10-325
23 by adding refills and increasing the quantity of pills on her prescriptions. After Respondent filled
24 the prescriptions, she deleted the prescriptions from the pharmacy computer in order to escape
25 detection. Respondent then re-filled the prescriptions she had just deleted from the pharmacy
26 computer. On approximately June 4, 2008, Kaiser Permanente Pharmacy employees discovered
27 Respondent had been manipulating the Kaiser Pharmacy computer system.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Furnishing Controlled Substances without a Prescription)

3 16. Respondent's license is subject to discipline for unprofessional conduct under Code
4 sections 4301(j) and (o), for violation of 4059(a) and H&S Code section 11158(a) in that
5 Respondent furnished a controlled substance without a prescription. The circumstances are as
6 follows:

7 17. On or about November 26, 2007, December 14, 2007, December 17, 2007, December
8 22, 2007, December 26, 2007, December 28, 2007, December 30, 2007 and January 18, 2008,
9 while Respondent was employed as a pharmacy technician at Kaiser Permanente Pharmacy #220,
10 Respondent furnished to herself at least 520 tablets of Hydrocodone/APAP 10-325, a controlled
11 substance, using unauthorized prescriptions and unauthorized prescription refills as more
12 particularly described in paragraph 14, above, and incorporated herein by reference.

13 SECOND CAUSE FOR DISCIPLINE

14 (Obtaining a Controlled Substance by Dishonesty and Fraud)

15 18. Respondent's license is subject to discipline for unprofessional conduct under Code
16 sections 4301(f) and (j), in conjunction with H&S Code section 11173(a), in that Respondent
17 obtained controlled substances by dishonesty, fraud, deceit and subterfuge. The circumstances
18 are as follows:

19 19. On or about November 16, 2007, December 14, 2007, December 17, 2007, December
20 26, 2007, December 28, 2007, December 29, 2007, December 30, 2007, January 8, 2008 and
21 January 18, 2008, Respondent obtained controlled substances for herself by creating false refills
22 and unauthorized prescriptions, deleting computerized records of medications dispensed to her,
23 changing prescribers and directions for use on prescriptions, as well as increasing dispensing
24 amounts on her prescriptions, in order to obtain at least 520 tablets of Hydrocodone/APAP 10-
25 325, a controlled substance, without prescriber authorization while employed as a pharmacy
26 technician at Kaiser Permanente Pharmacy #220 and as more particularly described in paragraph
27 14, above, and incorporated herein by reference.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Obtained Controlled Substances by False Documentation, Records and Alterations)

3 20. Respondent's license is subject to discipline for unprofessional conduct under Code
4 sections 4301(g) and (j), 4324(a), in conjunction with H&S Code section 11173(a) in that
5 Respondent obtained controlled substances by false documentation, records and alterations. The
6 circumstances are as follows:

7 21. On or about November 16, 2007, December 14, 2007, December 17, 2007, December
8 26, 2007, December 28, 2007, December 29, 2007, December 30, 2007, January 8, 2008 and
9 January 18, 2008, Respondent obtained at least 520 tablets of Hydrocodone/APAP 10-325, a
10 controlled substance, by creating false records and false prescription documentation, including
11 unauthorized refills, unauthorized prescriptions, changing prescriber names, changing directions
12 for use, deleting prescription dispensings, and increasing dispensing amounts, without prescriber
13 authorization, while employed as a pharmacy technician at Kaiser Permanente Pharmacy #220
14 and as more particularly described in paragraph 14, above, and incorporated herein by reference.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Possession of a Controlled Substance without a Prescription)

17 22. Respondent's license is subject to discipline for unprofessional conduct under Code
18 sections 4301(j) and (o) in conjunction with Code section 4060 and H&S Code section 11350(a),
19 in that Respondent possessed controlled substances without a prescription. The circumstances are
20 as follows:

21 23. On or about November 26, 2007, December 14, 2007, December 17, 2007, December
22 22, 2007, December 26, 2007, December 28, 2007, December 30, 2007 and January 18, 2008,
23 while Respondent was employed as a pharmacy technician at Kaiser Permanente Pharmacy #220,
24 Respondent furnished to herself at least 520 tablets of Hydrocodone/APAP 10-325, without a
25 valid prescription or prescriber authorization while employed as a pharmacy technician at Kaiser
26 Permanente Pharmacy #220 and as more particularly described in paragraph 14, above, and
27 incorporated herein by reference.

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PRAYER

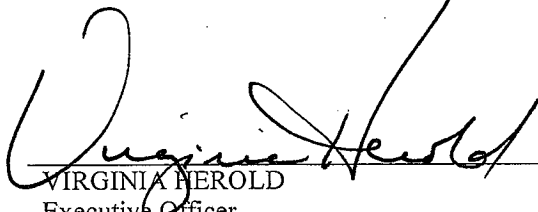
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 36591, issued to Jennifer D. Gill;

2. Ordering Jennifer D. Gill 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; and

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

DATED: 10/30/09


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

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