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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. 3402

13 **STEVEN J. CORREA**
P.O. Box 63
Cottonwood, CA 96022

A C C U S A T I O N

14 **Inmate Register Number 17617-097**
15 **FCI Herlong**
16 **Satellite Camp**
P.O. Box 800
Herlong, CA 96113

17 **Pharmacy Technician License No. TCH 36611**

18 Respondent.

19
20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about June 8, 2001, the Board issued Pharmacy Technician License Number
25 TCH 36611 to Steven J. Correa ("Respondent"). Respondent's pharmacy technician license was
26 in full force and effect at all times relevant to the charges brought herein and will expire on June
27 30, 2011, unless renewed.

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STATUTORY PROVISIONS

1
2 3. Business and Professions Code ("Code") section 4202, subdivision (d), states that the
3 Board may suspend or revoke a license issued pursuant to this section on any ground specified in
4 Section 4301.

5 4. Code section 4300 states, in pertinent part:

6 (a) Every license issued may be suspended or revoked.

7 (b) The board shall discipline the holder of any license issued by the
8 board, whose default has been entered or whose case has been heard by the board and
found guilty, by any of the following methods:

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

11 (3) Suspending his or her right to practice for a period not exceeding one
12 year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the
board in its discretion may deem proper . . .

15 5. Code section 4301 states, in pertinent part:

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

19

20 (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
21 a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

22

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

24

25 (l) The conviction of a crime substantially related to the qualifications,
26 functions, and duties of a licensee under this chapter. The record of conviction of a
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
27 States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
28 evidence of unprofessional conduct. In all other cases, the record of conviction shall
be conclusive evidence only of the fact that the conviction occurred. The board may

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

13
14
15 (o) Violating or attempting to violate, directly or indirectly, or assisting in
16 or abetting the violation of or conspiring to violate any provision or term of this
17 chapter or of the applicable federal and state laws and regulations governing
18 pharmacy, including regulations established by the board . . .

19 6. Code section 4022 states:

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

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

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

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

7. Code section 4059, subdivision (a), states:

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.

8. Code section 4060 states, in pertinent part:

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 . . .

1 9. 21 United States Code section 841 states, in pertinent part:

2 (a) Unlawful acts. Except as authorized by this title, it shall be unlawful
3 for any person knowingly or intentionally--

4 (1) to manufacture, distribute, or dispense, or possess with intent to
5 manufacture, distribute, or dispense, a controlled substance . . .

6 10. Health and Safety Code section 11158, subdivision (a), states:

7 (a) Except as provided in Section 11159 or in subdivision (b) of this
8 section, no controlled substance classified in Schedule II shall be dispensed without a
9 prescription meeting the requirements of this chapter. Except as provided in Section
10 11159 or when dispensed directly to an ultimate user by a practitioner, other than a
11 pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V
12 may be dispensed without a prescription meeting the requirements of this chapter.

13 11. Health and Safety Code section 11350 states, subdivision (a), states:

14 Except as otherwise provided in this division, every person who possesses
15 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
16 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
17 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
18 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
19 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
20 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
21 practice in this state, shall be punished by imprisonment in the state prison.

22 12. Health and Safety Code section 11352, subdivision (a), states:

23 Except as otherwise provided in this division, every person who
24 transports, imports into this state, sells, furnishes, administers, or gives away, or
25 offers to transport, import into this state, sell, furnish, administer, or give away, or
26 attempts to import into this state or transport (1) any controlled substance specified in
27 subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
28 specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
specified in subdivision (b) or (c) of Section 11055 or specified in subdivision (h) of
Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V
which is a narcotic drug, unless upon the written prescription of a physician, dentist,
podiatrist, or veterinarian licensed to practice in this state, shall be punished by
imprisonment in the state prison for three, four, or five years.

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

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

1 **COST RECOVERY**

2 14. Code section 125.3 states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.

6 **CONTROLLED SUBSTANCE/DANGEROUS DRUG AT ISSUE**

7 15. "OxyContin", a brand of controlled release oxycodone, is a Schedule II controlled
8 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and a
9 dangerous drug pursuant to Code section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Criminal Conviction)**

12 16. Respondent is subject to disciplinary action pursuant to Code section 4301,
13 subdivision (l), on the grounds of unprofessional conduct, in that on or about July 22, 2008, in the
14 criminal proceeding titled *USA v. Correa* (U.S. Dist. Ct., Eastern Dist. of CA, 2008, Case No.
15 2:08CR00224-01 LKK), Respondent pleaded guilty to violating 21 United States Code sections
16 846 and 841, subdivision (a)(1) (Conspiracy to Distribute and to Possess With Intent to Distribute
17 Oxycodone, a Class C felony), a crime substantially related to the qualifications, functions, and
18 duties of a pharmacy technician. On March 24, 2009, Respondent was committed to the custody
19 of the United States Bureau of Prisons to be imprisoned for a total term of 25 months,
20 commencing on May 5, 2009. The circumstances of the crime are as follows: On or about April
21 26, 2007, through January 31, 2008, while employed as a pharmacy technician at Owens
22 Pharmacy located in Red Bluff, California, Respondent stole approximately 100 to 318 tablets of
23 OxyContin 80 mg from the pharmacy inventory and sold them to T.M..

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

26 17. Respondent is subject to disciplinary action pursuant to Code section 4301,
27 subdivision (f), on the grounds of unprofessional conduct, in that on or about April 26, 2007;
28 through January 31, 2008, while employed as a pharmacy technician at Owens Pharmacy located

1 in Red Bluff, California, Respondent committed acts involving moral turpitude, dishonesty, fraud,
2 deceit, or corruption, as set forth in paragraph 16 above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Violations of Statutes of this State and of the U.S. Regulating
5 **Controlled Substances and Dangerous Drugs)**

6 18. Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section
7 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about April 26,
8 2007, through January 31, 2008, while employed as a pharmacy technician at Owens Pharmacy
9 located in Red Bluff, California, Respondent violated the following statutes of this state and of
10 the United States regulating controlled substances and dangerous drugs:

11 a. Respondent knowingly or intentionally distributed or dispensed, or possessed with the
12 intent to distribute or dispense, 100 to 318 tablets of OxyContin 80 mg, in violation of 21 United
13 States Code section 841, subdivision (a)(1).

14 b. Respondent possessed approximately 100 to 318 tablets of OxyContin 80 mg without
15 a lawful prescription for the medication from a physician, dentist, podiatrist, optometrist, or
16 veterinarian, in violation of Code section 4060 and Health and Safety Code section 11350,
17 subdivision (a).

18 c. Respondent furnished or dispensed 100 to 318 tablets of OxyContin 80 mg to T.M.,
19 in violation of Code section 4059, subdivision (a), and Health and Safety Code section 11158,
20 subdivision (a).

21 d. Respondent sold 100 to 318 tablets of OxyContin 80 mg to T.M. without a
22 prescription, in violation of Health and Safety Code section 11352, subdivision (a).

23 **FOURTH CAUSE FOR DISCIPLINE**

24 (Violations of State Laws Governing Pharmacy)

25 19. Respondent is subject to disciplinary action pursuant to Code section 4301,
26 subdivision (o), on the grounds of unprofessional conduct, in that on or about April 26, 2007,
27 through January 31, 2008, while employed as a pharmacy technician at Owens Pharmacy located
28 in Red Bluff, California, Respondent violated or attempted to violate, directly or indirectly, or

1 assisted in or abetted the violation of, or conspired to violate, state laws governing pharmacy, as
2 set forth in subparagraphs 18 (b) and (c) above.

3 PRAYER

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

- 6 1. Revoking or suspending Pharmacy Technician License Number TCH 36611, issued
7 to Steven J. Correa.
- 8 2. Ordering Steven J. Correa to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3;
- 11 3. Taking such other and further action as deemed necessary and proper.

12
13 DATED: June 16, 2011 *Virginia Herold*

14 *for* VIRGINIA HEROLD
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant

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