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

10 In the Matter of the Accusation Against:

Case No. 3409

11 **JENNIFER ERIN PARKS**
12 **2677 Oak Road #100**
13 **Walnut Creek, California 94597**

A C C U S A T I O N

14 **Pharmacy Technician Registration No.**
15 **TCH 57498**

Respondent.

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 July 15, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 57498 to Jennifer Erin Parks (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on July 31, 2010, unless renewed.

25 **JURISDICTION**

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

1 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
2 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the
3 state prison, or by imprisonment in the county jail for not more than one year.

4 "(b) Every person who has in his or her possession any drugs secured by a forged
5 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
6 county jail for not more than one year."

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

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

14 CONTROLLED SUBSTANCES

15 9. Section 4021 of the Code states:

16 "'Controlled substance' means any substance listed in Chapter 2 (commencing with Section
17 11053) of Division 10 of the Health and Safety Code."

18 10. Section 4022 of the Code states:

19 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
20 self-use, except veterinary drugs that are labeled as such, and includes the following:

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

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

26 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only
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28

1 on prescription or furnished pursuant to Section 4006.”

2 11. Section **4051** of the Code states:

3 ~~“(a) Except as otherwise provided in this chapter, it is unlawful for any person to~~
4 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
5 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
6 is a pharmacist under this chapter.

7
8 “(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a
9 prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or
10 patient consultation if all of the following conditions are met:

11 “(1) The clinical advice or information or patient consultation is provided to a health care
12 professional or to a patient.

13 “(2) The pharmacist has access to prescription, patient profile, or other relevant medical
14 information for purposes of patient and clinical consultation and advice.

15 “(3) Access to the information described in paragraph (2) is secure from unauthorized
16 access and use.”

17 12. Section **4060** of the Code states:

18 “No person shall possess any controlled substance, except that furnished to a person upon
19 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
20 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
21 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
22 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
23 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
24 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
25 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
26 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
27 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
28 labeled with the name and address of the supplier or producer.

1 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
2 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
3 and devices."

4 **COST RECOVERY**

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

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Criminal Conviction)

11 14. Respondent is subject to disciplinary action under section 4301(I) of the Code in that
12 she has been convicted of a crime substantially related to the qualifications, functions, and duties
13 of a licensee. The circumstances are as follows:

14 15. On or about October 15, 2008, in Contra Costa Superior Court Case No. 01-138450-
15 2, Respondent was convicted of having violated Business and Professions Code section 4324(b)
16 (possession of drugs from a forged prescription), a misdemeanor.

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Forgery and False Statements)

19 16. Respondent is subject to disciplinary action under section 4301, subsections (f) and
20 (g), and under section 4324(a), in that she committed acts involving moral turpitude, dishonesty,
21 fraud, deceit or corruption and knowingly made or signed certificates or documents falsely
22 representing the existence or nonexistence of a state of facts and made, altered, forged, uttered,
23 published, passed, or attempted to pass, as genuine, any prescription for any drugs. The
24 circumstances are as follows:

25 17. On or about June 26, 2008, and July 5, 2008, Respondent fraudulently obtained
26 approximately 280 tablets of drugs including Zolpidem, Norco and Lorazepam, all of which are
27 controlled substances and dangerous drugs, and lithium carbonate, a dangerous drug. Respondent
28 phoned Longs Pharmacy in Walnut Creek, California and posed as an agent of her physician in

1 order to make and renew prescriptions for these drugs. Respondent, who was an employee of
2 Longs, made false entries in the pharmacy records regarding these transactions.

3 **THIRD CAUSE FOR DISCIPLINE**

4 (Unlawful Possession and use of Drugs)

5 18. Respondent is subject to disciplinary action under section 4301, subsections (h), (j)
6 and (o), in that she violated state statutes regulating possession and use of controlled substances
7 and dangerous drugs and violated state laws governing pharmacy. The circumstances are as
8 follows:

9 19. On or about June 26, 2008, and July 5, 2008, Respondent fraudulently obtained
10 approximately 280 tablets of drugs including Zolpidem, Norco and Lorazepam, all of which are
11 controlled substances and dangerous drugs, and lithium carbonate, a dangerous drug.

12 20. Respondent possessed and used these drugs in violation of Code sections 4051 and
13 4060 and in violation of Health and Safety Code sections 11350, 11377 and 11550.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 (Threats to Witness)

16 21. Respondent is subject to disciplinary action under section 4301, subsections (a), (f)
17 and (q), in that she engaged in conduct that subverted or attempted to subvert an investigation.
18 This conduct involved gross immorality, moral turpitude and corruption. The circumstances are
19 as follows:

20 22. On or about July 10, 2008, during a telephone conversation, Respondent threatened to
21 harm a witness who had made statements regarding Respondent's unlawful activities at Long's
22 Pharmacy in Walnut Creek, California.

23 **PRAYER**

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

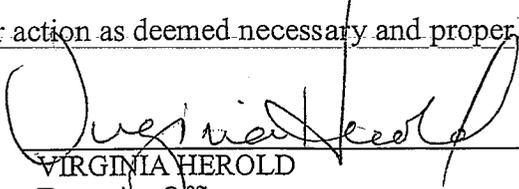
26 1. Revoking or suspending Pharmacy Technician Registration Number TCH 57498,
27 issued to Jennifer Erin Parks;

28 2. Ordering Jennifer Erin Parks to pay the Board of Pharmacy the reasonable costs of

1 the investigation and enforcement of this case, pursuant to Business and Professions Code section
2 125.3;

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

4 DATED: 9/29/09



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

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