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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. 3551

11 **STEPHANIE RAE FERNANDEZ**
12 678 Bartlett Avenue
Hayward, CA 94541
13 **Pharmacy Technician Registration No. TCH**
75828

A C C U S A T I O N

14 Respondent.
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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 April 25, 2007, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 75828 to Stephanie Rae Fernandez (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 September 30, 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 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.”

4 6. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
5 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
7 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
8 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

9 7. Section 4060 of the Code states:

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

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

24 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
25 revoke a license on the ground that the licensee has been convicted of a crime substantially
26 related to the qualifications, functions, or duties of the business or profession for which the
27 license was issued.

28 9. Health and Safety Code Section 11350 (a) states:

1 "Except as otherwise provided in this division, every person who possesses (1) any
2 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
3 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
4 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
5 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
6 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
7 licensed to practice in this state, shall be punished by imprisonment in the state prison.

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

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

15 COSTS

16 11. Section 125.3 of the Code states, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation or violations of
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
19 enforcement of the case.

20 DRUGS INVOLVED

21 12. Hydrocodone/APAP (Brand name Vicodin) is a controlled substance pursuant to
22 Health and Safety Code section 11056(e)(4) and a dangerous drug pursuant to Business and
23 professions code §4022. It is used to treat pain.

24 FACTUAL BACKGROUND

25 13. From about December 11, 2007 until about December 8, 2008, Respondent stole
26 approximately 18 bottles of Hydrocodone/APAP 10mg/325mg from her employer Walgreens.
27 Respondent worked for Walgreens as a pharmacy technician. Each bottle Respondent stole
28 contained about 500 pills of Hydrocodone/APAP 10mg/325mg. Respondent gave the bottles of

1 Hydrocodone/APAP 10mg/325mg to her boyfriend who then sold the bottles for \$1200 each.
2 Respondent's boyfriend then gave the proceeds of the sale back to Respondent.

3 14. On or about May 18, 2009, In Alameda County Superior Court Case No. 417524-7
4 (H46893A), Respondent was convicted on a plea of no contest to violating Penal Code section
5 487(a), felony grand theft. The circumstances are described in paragraph 13, above.

6 FIRST CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct-Conviction)

8 15. Respondent is subject to disciplinary action under sections 4301(l) and 490 of the
9 code in that respondent was convicted of a crime that is substantially related to the duties,
10 functions, or qualifications of pharmacy technician. The circumstances are described in
11 paragraphs 13-14, above.

12 SECOND CAUSE FOR DISCIPLINE

13 (Unprofessional Conduct-Violation of Drug Laws)

14 16. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
15 Respondent violated Business and Professions Code §§ 4059, 4060 and Health Safety Code
16 §11350(a) (all are California statutes that regulate controlled substances and dangerous drugs) by
17 possessing and furnishing controlled substances and dangerous drugs without a prescription. The
18 circumstances are described in paragraph 13, above.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct-Moral Turpitude, Dishonesty, Fraud, and/or Deceit)

21 17. Respondent is subject to disciplinary action under section 4301 (f) of the code in that
22 Respondent committed acts of moral turpitude, dishonesty, and/or deceit. The circumstances are
23 described in paragraph 13, above.

24 PRAYER

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

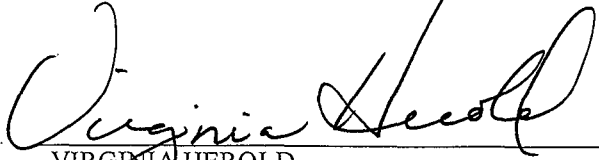
27 1. Revoking or suspending Pharmacy Technician Registration Number TCH 75828,
28 issued to Stephanie Rae Fernandez.

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2. Ordering Stephanie Rae Fernandez 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;

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

DATED: 6/3/10



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

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