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7

8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation Against:

Case No. 3586

12 **HOLLY LYNN ALLEN**
13 7264 Olympic Rd. #102
14 Joshua Tree, CA 92252

A C C U S A T I O N

15 Pharmacy Technician License No. TCH 15233

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about February 22, 1995, the Board issued Pharmacy Technician License No.
23 TCH 15233 to Holly Lynn Allen (Respondent). The Pharmacy Technician License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on
25 April 30, 2012, unless renewed.

26 **JURISDICTION**

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

STATUTORY PROVISIONS

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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 4060 states:

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

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

21 6. Section 4300 subdivision (a), states that "[e]very license issued may be suspended or
22 revoked."

23 7. Section 4301 states, in pertinent part:

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

27

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1 11. Phentermine, a stimulant, is classified as a Schedule IV controlled substance pursuant
2 to the Health and Safety Code section 11057, subdivision (f)(4), and is a dangerous drug within
3 the meaning of section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Controlled Substances)**

6 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
7 the grounds of unprofessional conduct, in that on or about March 24, 2008, Respondent
8 administered to herself Marijuana and Phentermine, controlled substances and dangerous drugs,
9 without a valid prescription in a manner as to be dangerous or injurious to herself or others, and /
10 or the extent of her use impairs her ability to conduct with safety to the public.

11 13. The circumstances were that on or about March 24, 2008, while employed as a
12 licensed pharmacy technician at Wal-Mart Pharmacy, Yucca Valley, California, Respondent
13 submitted to a drug screen administered by her employer. The drug test was administered after
14 the pharmacy experienced an unexplained shortage of controlled substances. The results of the
15 drug screen showed positive results for Marijuana and Phentermine, controlled substances and
16 dangerous drug, for Respondent.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Possession of Controlled Substances)**

19 14. Respondent is subject to disciplinary action under section 4301, subdivision (j), for
20 violating section 4060, on the grounds of unprofessional conduct, in that on or about
21 March 24, 2008, Respondent possessed Marijuana and Phentermine, controlled substances and
22 dangerous drugs, without valid prescriptions. Complainant refers to the allegations set forth
23 above in paragraph 13, inclusive, and incorporates them by reference as though set forth fully.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Violate Chapter - Unprofessional Conduct)**

26 15. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
27 that on or about March 24, 2008, Respondent committed acts of unprofessional conduct violating
28 provisions of the chapter. Complainant refers to and by this reference incorporates the allegations

1 set forth above in paragraph 13, inclusive, as though set forth fully.

2 PRAYER

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

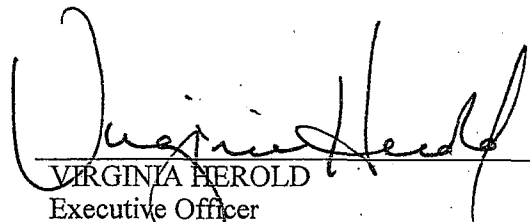
5 1. Revoking or suspending Pharmacy Technician License No. TCH 15233, issued to
6 Respondent;

7 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
8 enforcement of this case, pursuant to section 125.3; and

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

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DATED: 8/13/10



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

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