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7

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

11 In the Matter of the Accusation Against:

Case No. 3661

12 **TINA-ANN JOHNSON**  
13 **15 Winslow Ave.**  
**Vallejo, CA 94590**

**ACCUSATION**

14 **Pharmacy Technician Registration No.**  
15 **TCH46701**

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.

22 2. On or about December 20, 2002, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH46701 to Tina-Ann Johnson (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on June 30, 2012, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
28 Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code unless otherwise indicated.

2 4. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous  
3 drug or dangerous device except upon the prescription of an authorized prescriber.

4 5. Section 4060 of the Code, in pertinent part, prohibits possession of any controlled  
5 substance, except that furnished upon the prescription of an authorized prescriber.

6 6. Section 4300 of the Code states, in pertinent part:

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

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

11 "(1) Suspending judgment.

12 "(2) Placing him or her upon probation.

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

14 "(4) Revoking his or her license.

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

17 ...

18 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5  
19 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
20 shall have all the powers granted therein. The action shall be final, except that the propriety of  
21 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
22 Civil Procedure."

23 7. Section 4301 of the Code states:

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 ...

28

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

4 ...

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

7 ...

8 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
9 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
10 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
11 substances or of a violation of the statutes of this state regulating controlled substances or  
12 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
13 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
14 The board may inquire into the circumstances surrounding the commission of the crime, in order  
15 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
16 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
17 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
18 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
19 of this provision. The board may take action when the time for appeal has elapsed, or the  
20 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
21 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
22 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
23 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
24 indictment.

25 ...

26 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable

28

1 federal and state laws and regulations governing pharmacy, including regulations established by  
2 the board or by any other state or federal regulatory agency.

3  
4 ..."

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

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

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

16 10. 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 11. Section 118, subdivision (b), of the Code provides that the expiration of a license  
21 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
22 within which the license may be renewed, restored, reissued or reinstated.

23 12. Health and Safety Code section 11158(a) provides:

24 "Except as provided in Section 11159 or in subdivision (b) of this section, no controlled  
25 substance classified in Schedule II shall be dispensed without a prescription meeting the  
26 requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to  
27 an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance  
28

1 classified in Schedule III, IV, or V may be dispensed without a prescription meeting the  
2 requirements of this chapter.”

3 13. Health and Safety Code section 11171 provides:

4 “No person shall prescribe, administer, or furnish a controlled substance except under the  
5 conditions and in the manner provided by this division.”

6 14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess  
7 any narcotic drug listed in Schedules III-V, absent a valid prescription.

8 15. Health and Safety Code section 11352, in pertinent part, makes it unlawful to sell,  
9 transport, furnish, administer, or give away, any controlled substance classified in Schedule III,  
10 IV, or V which is a narcotic drug, unless upon written prescription of a authorized prescriber.

#### 11 DRUGS

12 16. Hydrocodone is a Schedule II controlled substance as designated by Health and  
13 Safety Code section 11055(b)(1)(I) and is a dangerous drug per Code section 4022, used for  
14 moderate to severe pain relief.

15 17. Clonazepam (Klonopin) is a Schedule IV controlled substance as designated by  
16 Health and Safety Code section 11057(d)(7) and is a dangerous drug per Code section 4022, used  
17 for anxiety.

18 18. Lorazepam (Ativan) is a Schedule IV controlled substance as designated by Health  
19 and Safety Code section 11057(d)(16) and is a dangerous drug per Code section 4022. It is a  
20 benzodiazepine, muscle relaxant and anti-convulsant.

#### 21 FIRST CAUSE FOR DISCIPLINE

#### 22 (CRIMINAL CONVICTIONS)

23 19. Respondent is subject to disciplinary action under section 4301(l) and/or section 490  
24 of the Code, by reference to California Code of Regulations, title 16, section 1770, for the  
25 conviction of a substantially related crime, in that on or about October 2, 2006, in a criminal  
26 proceeding entitled *The People of the State of California v. Tina Ann Johnson* in Los Angeles  
27 County Superior Court, Case Number 6IG02394, Respondent was convicted by her plea of nolo  
28 contendere of violating Penal Code section 602(k) (trespass). Respondent was sentenced to

1 probation for one year, and ordered to pay a fine in the amount of \$711.00. The circumstances of  
2 the conviction were that on or about June 3, 2006, Respondent was arrested in Inglewood,  
3 California for loitering with intent to commit prostitution.

4 20. Respondent is further subject to disciplinary action under section 4301(l) and/or  
5 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,  
6 for the conviction of a substantially related crime, in that on or about October 6, 2006, in a  
7 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in Los  
8 Angeles County Superior Court, Case Number 6HY02934, Respondent was convicted by her plea  
9 of nolo contendere of violating Penal Code section 647(a) (engage in lewd or dissolute conduct).  
10 Respondent was sentenced to probation for two years, 15 days jail time, and ordered to pay a fine  
11 in the amount of \$191.00. The circumstances of the conviction were that on or about October 5,  
12 2006, Respondent was arrested in Inglewood, California for soliciting to engage in commit  
13 prostitution.

14 21. Respondent is further subject to disciplinary action under section 4301(l) and/or  
15 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,  
16 for the conviction of a substantially related crime, in that on or about April 25, 2007, in a criminal  
17 proceeding entitled *The People of the State of California v. Tina Annmarie Johnson* in Los  
18 Angeles County Superior Court, Case Number 7CA07842, Respondent was convicted by her plea  
19 of nolo contendere of violating Penal Code section 653.22(a) (loiter with intent to commit  
20 prostitution). Respondent was sentenced to probation for two years, 15 days jail time, and  
21 ordered to pay a fine in the amount of \$120.00. The circumstances of the conviction were that on  
22 or about April 24, 2007, Respondent was arrested in Inglewood, California for loitering with  
23 intent to commit prostitution.

24 22. Respondent is further subject to disciplinary action under section 4301(l) and/or  
25 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,  
26 for the conviction of a substantially related crime, in that on or about September 27, 2007, in a  
27 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in  
28 Alameda County Superior Court, Case Number 532448, Respondent was convicted by her plea of

1 no contest of violating Penal Code section 415 (fighting noise/offensive words). Respondent was  
2 sentenced to probation for two years, two days jail time, and ordered to pay a fine in the amount  
3 of \$130.00. The circumstances of the conviction were that on or about August 16, 2007,  
4 Respondent was arrested in Alameda County, California, for agreeing to engage in prostitution  
5 and soliciting another to engage in lewd conduct.

6 23. Respondent is further subject to disciplinary action under section 4301(l) and/or  
7 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,  
8 for the conviction of a substantially related crime, in that on or about March 25, 2010, in a  
9 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in  
10 Sacramento County Superior Court, Case Number 10M01694, Respondent was convicted by her  
11 plea of nolo contendere of violating Penal Code section 647(b) (solicit or agree to engage in  
12 prostitution). Respondent was sentenced to serve 30 days jail time, and ordered to pay a fine in  
13 the amount of \$621.51. The circumstances of the conviction were that on or about February 20,  
14 2010, Respondent was arrested in Vallejo, California for prostitution and loitering with intent to  
15 engage commit prostitution.

16 24. Respondent is further subject to disciplinary action under section 4301(l) and/or  
17 section 490 of the Code, by reference to California Code of Regulations, title 16, section 1770,  
18 for the conviction of a substantially related crime, in that on or about October 15, 2010, in a  
19 criminal proceeding entitled *The People of the State of California v. Tina Ann Johnson* in Los  
20 Angeles County Superior Court, Case Number 0CA14592, Respondent was convicted by her plea  
21 of nolo contendere of violating Penal Code section 653.22 (loiter with intent to commit  
22 prostitution). Respondent was sentenced to serve two years probation, and ordered to pay a fine  
23 in the amount of \$281.00. The circumstances of the conviction were that on or about October 14,  
24 2010, Respondent was arrested in Los Angeles, California for prostitution.

25 SECOND CAUSE FOR DISCIPLINE

26 (UNLAWFUL POSSESSION OF CONTROLLED SUBSTANCES)

27 25. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code in  
28 that between August 31, 2007 and July 9, 2008, Respondent possessed/transported, attempted or

1 assisted or abetted possession/transport of, and/or conspired to possess/transport, without valid  
2 prescriptions, controlled substances and/or dangerous drugs, in violation of section 4060 of the  
3 Code and/or Health and Safety Code section(s) 11350 and/or 11352, namely five hydrocodone  
4 and acetaminophen 10/325 tablets, seven hydrocodone with acetaminophen 5/500 tablets, four  
5 clonazepam 1 mg tablets, and four lorazepam 1 mg tablets without a prescription.

6 THIRD CAUSE FOR DISCIPLINE

7 (DISPENSING/ADMINISTERING/FURNISHING OF NARCOTIC CONTROLLED  
8 SUBSTANCES)

9 26. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, in  
10 that between August 31, 2007 and July 9, 2008, Respondent dispensed, administered, furnished,  
11 attempted or assisted or abetted dispensing, administering or furnishing, or conspired to dispense,  
12 administer or furnish, controlled substance prescriptions not meeting requirements of the Uniform  
13 Controlled Substances Act, in violation of Health and Safety Code section(s) 11158 and/or 11171,  
14 namely five hydrocodone and acetaminophen 10/325 tablets, seven hydrocodone with  
15 acetaminophen 5/500 tablets, four clonazepam 1 mg tablets, and four lorazepam 1 mg tablets  
16 without a prescription.

17 FOURTH CAUSE FOR DISCIPLINE

18 (MORAL TURPITUDE, DISHONESTY, FRAUD, DECEIT OR CORRUPTION)

19 27. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, in  
20 that between August 31, 2007 and July 9, 2008, Respondent acted with moral turpitude,  
21 dishonesty, fraud, deceit or corruption when she pilfered five hydrocodone and acetaminophen  
22 10/325 tablets, seven hydrocodone with acetaminophen 5/500 tablets, four clonazepam 1 mg  
23 tablets, and four lorazepam 1 mg tablets from Walgreens #2609 in Berkeley, California.

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:

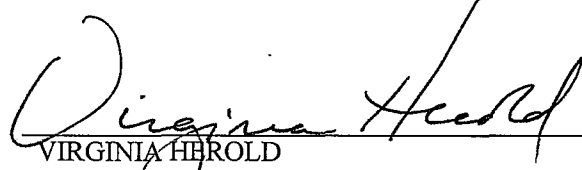
27 1. Revoking or suspending Pharmacy Technician Registration Number TCH46701,  
28 issued to Tina-Ann Johnson;



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2. Ordering Tina-Ann Johnson 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: 10/31/11   
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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