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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. 3777

13 **ANTHONY CLINTON THWEATT,**  
a.k.a. ANTHONY C. THWEATT,  
14 a.k.a. ANTHONY C. THEATT  
2411 Arline Street  
West Covina, CA 91792

**A C C U S A T I O N**

15 **Pharmacy Technician License**  
16 **No. TCH 49549**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 22, 2003, the Board of Pharmacy (Board) issued Pharmacy  
24 Technician License No. TCH 49549 to Anthony Clinton Thweatt, also known as Anthony C.  
25 Thweatt and Anthony C. Theatt (Respondent). The Pharmacy Technician License was in full  
26 force and effect at all times relevant to the charges brought herein, and will expire on May 31,  
27 2011, unless renewed.

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1 **JURISDICTION**

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

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b) provides in pertinent part, that the expiration of a license  
6 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
7 within which the license may be renewed, restored, reissued or reinstated.

8 5. Section 490 states, in pertinent part:

9 "(a) In addition to any other action that a board is permitted to take against a licensee, a  
10 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
12 or profession for which the license was issued.

13 "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
14 discipline a licensee for conviction of a crime that is independent of the authority granted under  
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
16 of the business or profession for which the licensee's license was issued.

17 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
18 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
21 made suspending the imposition of sentence, irrespective of a subsequent order under the  
22 provisions of Section 1203.4 of the Penal Code."

23 6. Section 4060 of the states, in pertinent part:

24 "No person shall possess any controlled substance, except that furnished to a person upon  
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
27 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a

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1 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
2 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
3 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
4 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
5 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
6 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
7 labeled with the name and address of the supplier or producer.”

8 7. Section 4300 provides, in pertinent part, that every license issued by the Board is  
9 subject to discipline, including suspension or revocation.

10 8. Section 4301 states, in pertinent part:

11 "The board shall take action against any holder of a license who is guilty of unprofessional  
12 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

13 Unprofessional conduct shall include, but is not limited to, any of the following:

14 . . . .

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

17 . . . .

18 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
21 substances or of a violation of the statutes of this state regulating controlled substances or  
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
24 The board may inquire into the circumstances surrounding the commission of the crime, in order  
25 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
26 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
28 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning

1 of this provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
6 indictment.”

7 . . . .

8 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
9 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
10 federal and state laws and regulations governing pharmacy, including regulations established by  
11 the board or by any other state or federal regulatory agency.”

#### 12 REGULATORY PROVISIONS

13 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

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

#### 20 COST RECOVERY

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

#### 25 11. CONTROLLED SUBSTANCES

26 a. “Ativan,” is the brand name for Lorazepam, a benzodiazepine derivative. It is a  
27 Schedule IV controlled substance as designated by Health and Safety Code section 11057,  
28 subdivision (d)(16) and is categorized as a dangerous drug pursuant to section 4022.

1 b. "Norco," is the brand name for Hydrocodone /Acetaminophen 10/325mg. It is a  
2 Schedule III controlled narcotic substance pursuant to Health and Safety Code section  
3 11056(e)(4) and is categorized as a dangerous drug pursuant to section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Conviction of a Substantially Related Crime)**

6 12. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and  
7 490, in conjunction with California Code of Regulations, title 16, section 1770, in that  
8 Respondent was convicted of a crime substantially related to the qualifications, functions or  
9 duties of a pharmacy technician. On or about November 23, 2010, Respondent was convicted of  
10 one felony count of violating Health & Safety Code section 11377, subdivision (a) [possession of  
11 a controlled substance] in the criminal proceeding entitled *The People of the State of California v.*  
12 *Anthony Clinton Thweatt*, (Los Angeles County Superior Court Case No. KA091342). The Court  
13 placed Respondent on 3 years formal probation, with terms and conditions. The circumstances  
14 surrounding the conviction are that on or about April 11, 2009, Respondent was contacted during  
15 a traffic stop by the West Covina Police Department. While speaking to Respondent, the police  
16 officer detected a strong odor of an alcoholic beverage emitting from the interior of the vehicle.  
17 Respondent was observed to be sweating about the face and forehead, had rapid speech, and an  
18 odor of alcohol upon his breath. When asked if there were any open containers or other illegal  
19 contraband in the car, Respondent stated, "There's nothing in there." During a search of  
20 Respondent's vehicle, the police officer found 2 unopened bottles of Hydrocodone containing 100  
21 pills each. During the booking search of Respondent's person, the officer found two small tablets  
22 in Respondent's right front pants pocket. When asked about these pills, Respondent indicated  
23 that he did not know where the pills came from, nor whom they belonged to. An investigation  
24 revealed that these pills were Ativan, a controlled substance.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Obtained or Possessed a Controlled Substance)**

27 13. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and  
28 (o) for violating section 4060, in that on or about April 11, 2009, Respondent was found to be in

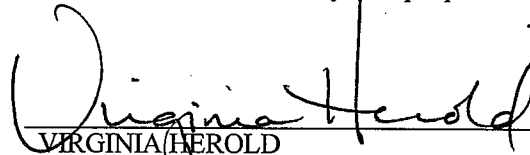
1 possession of a controlled substance. Complainant refers to, and by this reference incorporates,  
2 the allegations set forth above in paragraph 12, as though set forth fully.

3 PRAYER

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

- 6 1. Revoking or suspending Pharmacy Technician License No. TCH 49549, issued to  
7 Respondent.  
8 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
9 enforcement of this case, pursuant to section 125.3;  
10 3. Taking such other and further action as deemed necessary and proper.

11  
12 Dated: 2/23/11



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

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