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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. 3831

13 **KAREN ANNE ALLEN**
20757 Archwood St.
Winnetka, CA 91306

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 28779

15 Respondent.

16
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 March 23, 1999, the Board issued Pharmacy Technician License No.
23 TCH 28779 to Karen Anne 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 April 30,
25 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

1
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 490 provides, in pertinent part, that a board may suspend or revoke a license
7 on the ground that the licensee has been convicted of a crime substantially related to the
8 qualifications, functions, or duties of the business or profession for which the license was issued..

9 6. Section 492 states:

10 "Notwithstanding any other provision of law, successful completion of any diversion
11 program under the Penal Code, or successful completion of an alcohol and drug problem
12 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
13 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
14 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
15 division, from taking disciplinary action against a licensee or from denying a license for
16 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
17 record pertaining to an arrest.

18 "This section shall not be construed to apply to any drug diversion program operated by any
19 agency established under Division 2 (commencing with Section 500) of this code, or any
20 initiative act referred to in that division."

21 7. Section 4060 states:

22 "No person shall possess any controlled substance, except that furnished to a person upon
23 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
24 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
25 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
26 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
27 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
28 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not

1 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
2 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
3 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
4 labeled with the name and address of the supplier or producer.

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

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

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

18 "(g) Knowingly making or signing any certificate or other document that falsely
19 represents the existence or nonexistence of a state of facts.

20 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
21 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
22 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
23 to the extent that the use impairs the ability of the person to conduct with safety to the public the
24 practice authorized by the license.

25

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

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1 "(k) The conviction of more than one misdemeanor or any felony involving the use,
2 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
3 combination of those substances.

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

21 REGULATORY PROVISION

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

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

DRUG STATUTES

1
2 11. Health and Safety Code section 11170 states that “[n]o person shall prescribe,
3 administer, or furnish a controlled substance for himself.”

4 12. Health and Safety Code section 11173, subdivision (a), states that “[n]o person shall
5 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
6 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
7 or subterfuge; or (2) by the concealment of a material fact.”

8 13. Health and Safety Code section 11350, subdivision (a), states:

9 “Except as otherwise provided in this division, every person who possesses (1) any
10 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
11 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
12 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
13 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
14 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
15 licensed to practice in this state, shall be punished by imprisonment in the state prison.”

16 14. Health and Safety Code section 11377, subdivision (a), states:

17 “Except as authorized by law and as otherwise provided in subdivision (b) or Section
18 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the
19 Business and Professions Code, every person who possesses any controlled substance which is
20 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in
21 subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d),
22 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)
23 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section
24 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to
25 practice in this state, shall be punished by imprisonment in a county jail for a period of not more
26 than one year or in the state prison.”

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1 COST RECOVERY

2 15. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licentiate found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. **Ativan**, a brand name for Lorazepam, a **benzodiazepine derivative**, is a Schedule IV
8 controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(16),
9 and is categorized as a dangerous drug pursuant to section 4022.

10 17. Hydrocodone is in Schedule II of the Controlled Substances Act. Lortab, **Norco** and
11 **Vicodin**, brand/trade names of preparations containing hydrocodone in combination with other
12 non-narcotic medicinal ingredients, are in Schedule III pursuant to Health and safety Code section
13 11056(e)(4), and are categorized as dangerous drugs pursuant to section 4022.

14 18. **Valium**, a trade name for the chemical substance diazepam, a **benzodiazepam**
15 **derivative**, is a Schedule IV controlled substance as designated by Health and Safety Code
16 section 11057(d)(9) and is categorized as a dangerous drug pursuant to section 4022.

17 19. **Xanax**, a brand name for alprazolam, a **benzodiazepine**, is a Schedule IV controlled
18 substance as designated by Health and Safety Code section 11057(d)(1) and is categorized as a
19 dangerous drug pursuant to section 4022.

20 FIRST CAUSE FOR DISCIPLINE

21 (Convictions of Substantially Related Crimes)

22 20. Respondent is subject to disciplinary action under section 490, 4300 and 4301,
23 subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, on the
24 grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially
25 related to the qualifications, functions or duties of a registered pharmacy technician which to a
26 substantial degree evidence her present or potential unfitness to perform the functions authorized
27 by her registration in a manner consistent with the public health, safety, or welfare, as follows:

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1 a. On or about August 18, 2009, after pleading nolo contendere, Respondent was
2 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving under
3 the influence of alcohol/drugs] in the criminal proceeding entitled *The People of the State of*
4 *California v. Karen Anne Allen* (Super. Ct. Los Angeles County, 2009, No. SA 070585). The
5 Court placed Respondent on 36 months of probation to run concurrent with Case No. 9MB00910,
6 and ordered her to complete a three (3) month 1st Offender Alcohol/Drug Program. Further, on or
7 about August 18, 2009, after pleading guilty, in Case No. 9MB00910, Respondent was placed on
8 18 months of deferred entry of judgment for a misdemeanor violation of Health and Safety Code
9 section 11375(b)(2) [possession of controlled substance].

10 b. The circumstances underlying the conviction are that on or about February 7, 2009,
11 while under the tested influence of benzodiazepine, Respondent drove her vehicle into a guard
12 rail, causing the vehicle to have a front right flat tire, and she continued to drive the vehicle riding
13 on the flat tire's rim until pulled over by Los Angeles Sheriff's Department officers. Respondent
14 was in possession of 128 Vicodin, 61 Valium, 45 Xanax, and 5 Ativan, controlled substances and
15 dangerous drugs, without valid prescriptions.

16 c. On or about August 18, 2009, after pleading nolo contendere, Respondent was
17 convicted of one misdemeanor count of violating Vehicle Code section 23152(a) [driving while
18 under the influence of alcohol/drugs] in the criminal proceeding entitled *The People of the State*
19 *of California v. Karen Anne Allen* (Super. Ct., Los Angeles County, No. 9MB00910). The Court
20 sentenced Respondent to four (4) days in jail, placed her on 60 months of probation, ordered her
21 to complete an 18 months driving-under-the-influence program, ordered her to complete
22 additional AA/NA meetings three (3) times per week, and ordered her to continue counseling at
23 Kaiser.

24 d. The circumstances underlying the conviction are that on or about March 4, 2009,
25 while under the tested influence of benzodiazepine, Respondent drove a vehicle and was in
26 possession of 35 Valium, 98 Xanax, and 1 Vicodin, controlled substances and dangerous drugs,
27 without valid prescriptions.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Convictions Involving Dangerous Drugs)**

3 21. Respondent is subject to disciplinary action under sections 4300 and 4301,
4 subdivision (k), in that on or about August 18, 2009, Respondent sustained misdemeanor
5 convictions involving the use, consumption, or self-administration of dangerous drugs.
6 Complainant refers to and by this reference incorporates the allegations set forth above in
7 paragraph 20, subparagraphs a - d, inclusive, as though set forth fully.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Illegal Possession of Controlled Substances)**

10 22. Respondent is subject to disciplinary action under sections 4300 and 4301,
11 subdivision (j), in conjunction with section 4060, on the grounds of unprofessional conduct, in
12 that on or about February 7, 2009, and March 4, 2009, Respondent was in possession of
13 controlled substances and dangerous drugs, without valid prescriptions. Complainant refers to
14 and by this reference incorporates the allegations set forth above in paragraph 20, subparagraphs
15 b and d, inclusive, as though set forth fully.

16 **FOURTH CAUSE FOR DISCIPLINE**

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

18 23. Respondent is subject to disciplinary action under sections 4300 and 4301,
19 subdivision (h), on the grounds of unprofessional conduct, in that Respondent administered to
20 herself controlled substances, and / or used dangerous drugs to the extent or in a manner as to be
21 dangerous or injurious to herself or others. Complainant refers to and by this reference
22 incorporates the allegations set forth above in paragraphs 20 - 23, inclusive, as though set forth
23 fully.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Violating Drug Statutes)**

26 24. Respondent is subject to disciplinary action under sections 4300 and 4301,
27 subdivision (j), on the grounds of unprofessional conduct, for violating provisions of the Health
28 and Safety Code as follows:

1 a. Section 11170 for prescribing, administering and / or furnishing controlled substances
2 her herself.

3 b. Section 11173, subdivision (a), for obtaining controlled substances by fraud, deceit or
4 subterfuge.

5 c. Section 11350, subdivision (a), by possessing Vicodin, a narcotic and controlled
6 substance.

7 d. Section 11377, subdivision (a), by possessing Valium, Ativan, and Xanax, controlled
8 substances.

9 Complainant refers to and by this reference incorporates the allegations set forth above in
10 paragraphs 20 - 23, inclusive, as though set forth fully.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 **(False Statement on Application for Licensure)**

13 25. Respondent is subject to disciplinary action under section 4300 and 4301,
14 subdivision (g), on the grounds of unprofessional conduct, in that Respondent knowingly made or
15 signed her April 30, 2010, "Renewal Application" for licensure by falsely representing a state of
16 facts when she answered "No" to the question: "Since you last renewed your license, have you
17 had any license disciplined by a government agency or other disciplinary body; or, have you been
18 convicted of any crime in any state, the U S A and its territories, military court of a foreign
19 country?" Respondent sustained two (2) criminal convictions within the year prior to renewing
20 her license, on or about August 18, 2009. Complainant refers to and by this reference
21 incorporates the allegations set forth above in paragraph 20, subparagraphs a and c, inclusive, as
22 though set forth fully.

23 **SIXTH CAUSE FOR DISCIPLINE**

24 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

25 26. Respondent is subject to disciplinary action under sections 4300 and 4301,
26 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
27 involving moral turpitude, dishonesty, fraud, deceit and / or corruption. Complainant refers to
28 ///

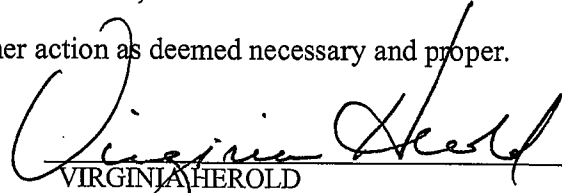
1 and by this reference incorporates the allegations set forth above in paragraphs 20 - 25, inclusive,
2 as though set forth fully.

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 28779, 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; and
- 10 3. Taking such other and further action as deemed necessary and proper.

11 DATED: 2/7/11



12 VIRGINIA HEROLD
13 Executive Officer
14 Board of Pharmacy
15 Department of Consumer Affairs
16 State of California
17 Complainant

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19 11/15/2010dmm; 2/2/2011dmm
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