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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. 4316

12 **JAMIE LYNN VAILE**

13 22053 Crystal Fall Dr. W.
14 Sonora, California 95370

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **70591**

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 July 15, 2006, the Board of Pharmacy (Board), Department of Consumer
23 Affairs, issued Pharmacy Technician Registration No. TCH 70591 to Jamie Lynn Vaile
24 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times
25 relevant to the charges brought herein and will expire on July 31, 2014.

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1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy, Department of Consumer
3 Affairs, under the authority of the following laws. All sections references are to the Business and
4 Professions Code unless otherwise indicated.

5 STATUTORY PROVISIONS

6 4. Section 477 of the Code states:

7 As used in this division:

8 (a) "Board" includes "bureau," "commission," "committee,"
9 "department," "division," "examining committee," "program," and "agency."

10 (b) "License" includes certificate, registration or other means of engage in
a business or profession regulated by this code.

11 5. Section 4301 states in relevant part, that:

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

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

18

19 (j) The violation of any of the statutes of this state, of any another, or of
the United States regulating controlled substances or dangerous drugs.

20

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

1 suspending the imposition of sentence, irrespective of a subsequent order under
2 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
3 dismissing the accusation, information, or indictment.

3 **DRUG**

4 6. "Hydrocodone" (also know as Norco) is a Schedule III controlled substance
5 pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug
6 pursuant to Business and Professions Code section 4022.

7 **COST RECOVERY**

8 7. Code section 125.3 provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Conviction of Crime)**

14 8. Respondent has subjected her license to discipline pursuant to Code section 4301,
15 subdivision (l), on the grounds of unprofessional conduct, in that Respondent was convicted of
16 crimes that are substantially related to the qualifications, functions, and duties of a pharmacy
17 technician, as follows:

18 9. On or about July 25, 2011, in the Superior Court of California, Country of Tuolumne,
19 in the matter entitled *The People of the State of California vs. Jamie Lynn Vaile*, Case Number
20 CRF34067, Respondent was convicted on her guilty plea of violating Health and Safety Code
21 section 11173 (a) (obtain controlled substance by fraud), Health and Safety Code section 11173
22 (a) (falsely assume title for the purpose of obtaining a controlled substance), and Penal Code
23 section 459 (second degree commercial burglary), all felonies. The circumstances of the crime are
24 as follow:

25 a. On or about September 14, 2010, Respondent attempted to commit prescription fraud.
26 Witness M.M. stated that Respondent called Sonora Regional Medical Center and identified
27 herself as "Margret" from Cedarwood Internal Medicine. Respondent, acting as "Margret",
28 ordered 90 tablets of Norco (Hydrocodone) for patient Jamie Vaile, with the instructions of one to

1 two pills to be taken every 4 to 6 hours for pain. Witness M.M. thought he recognized the voice
2 on the phone as Respondent's voice and confirm that the phone number in the ID caller match
3 Respondent's home phone number on record. Witness M.M. called Cedarwood International
4 Medicine and confirmed that no prescription was ordered for patient Jamie Vaile. Officer W.P.
5 was notified of the incident and contacted Respondent. Respondent admitted that she called in the
6 prescription pretending to be "Margret". Respondent stated she knew how to call in prescriptions
7 from her training at the pharmacy. Respondent claimed she called in the prescription because her
8 mother had been taking her prescription pills.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Act Involving Moral Turpitude)**

11 10. Respondent has subjected her license to discipline pursuant to Code section 4301,
12 subdivision (f), on the grounds of unprofessional conduct, in that on or about September 14, 2010,
13 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as
14 set forth in paragraph 9.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Violation of Statue Regulating Controlled Substance)**

17 11. Respondent has subjected her license to discipline pursuant to Code section 4301,
18 subdivision (j), on the grounds of unprofessional conduct, in that on or about September 14, 2010,
19 Respondent violated the statues of this State or any other state, or of the United States regulating
20 controlled substances and dangerous drugs when she attempted to order Hydrocodone without a
21 valid prescription, as set forth in paragraph 9.

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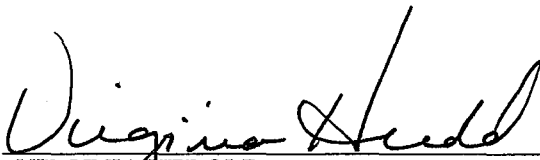
PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 70591, issued to Jamie Lynn Vaile;
2. Ordering Jamie Lynn Vaile 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:

6/10/13



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

SA2012106353