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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4437

11 **PARESHKOMAR B. PATEL**
12 **4709 W. Imperial Hwy**
13 **Inglewood, CA 90304**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **58874**

Respondent.

16
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 21 2. On or about September 29, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 58874 to Pareshkomar B. Patel (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on December 31, 2013, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 4. Section 118, subdivision (b), of the Code provides that the
2 suspension/expiration/surrender/cancellation of a license shall not deprive the
3 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
4 within which the license may be renewed, restored, reissued or reinstated.

5 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or
6 revoke a license issued by the Board.

7 6. Section 4301 of the Code states:

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

11 ...

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

14 ...

15 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
16 violation of or conspiring to violate any provision or term of this chapter or of the applicable
17 federal and state laws and regulations governing pharmacy, including regulations established by
18 the board or by any other state or federal regulatory agency.

19 7. Section 4060 of the Code states:

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

1 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
2 labeled with the name and address of the supplier or producer.

3 8. Health and Safety Code section 11377, subsection (a) states in pertinent

4 "Every person who possesses any controlled substance which is (1) classified in Schedule
5 III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054,
6 except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of
7 subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section
8 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the
9 prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state,
10 shall be punished by imprisonment in a county jail for a period of not more than one year or
11 pursuant to subdivision (h) of Section 1170 of the Penal Code."

12 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

13 9. Section 4021 of the Code provides that a "controlled substance" means any substance
14 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

15 10. Section 4022 of the Code states

16 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
17 humans or animals, and includes the following:

18 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
19 prescription," "Rx only," or words of similar import.

20 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
21 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
22 in with the designation of the practitioner licensed to use or order use of the device.

23 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
24 prescription or furnished pursuant to Section 4006."

25 11. Codeine, generic name codeine phosphate, is a Schedule II controlled substance as
26 defined in Health and Safety Code section 11055 (b)(1)(g); or "Codeine", not more than 1.8
27 grams per 100 milliliters, Schedule III controlled substance as defined in Health and Safety Code
28 section 11056 (e)(2), and categorized as a dangerous drug pursuant to section 4022 of the Code.

1 **CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 12. Respondent's license is subject to disciplinary action for unprofessional conduct
4 under section 4301, subdivisions (j) and (o) of the Code, in that Respondent was in possession of
5 a controlled substance, Codeine, in violation of section 4060 of the Code and Health and Safety
6 Code section 11377, subdivision (a). The circumstances are as follows:

7 13. On or about June 9, 2010, during a routine traffic stop of Respondent's vehicle, a Los
8 Angeles Deputy Sheriff (Deputy) noticed a yellow plastic bag on the front passenger seat.
9 Respondent consented to a search of the bag. The Deputy retrieved the bag and located five
10 bottles of Codeine inside. Respondent admitted that he knew it was illegal to possess the bottles
11 of Codeine. Respondent was arrested for violating felony Health and Safety Code Section 11379
12 (transportation of a controlled substance).

13 **PRAYER**

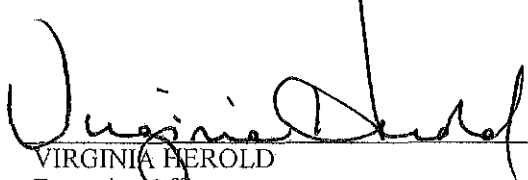
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Pharmacy issue a decision:

16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 58874,
17 issued to Respondent Pareshkomar B. Patel;

18 2. Ordering Respondent Pareshkomar B. Patel to pay the Board of Pharmacy the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3; and

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

22
23
24 DATED: 3/21/13


25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

LA2012507979
accusation.rtf