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

11 In the Matter of the Accusation Against:

Case No. 4452

12 **DULCE JACQUELINE YEPIZ**
13 **752 Mission Grove Place, #503**
14 **Escondido, CA 92025**

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
56601

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 May 28, 2004, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 56601 to Dulce Jacqueline Yepiz (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on September 30, 2013, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300 subdivision (a) of the Code states: "Every license issued may be
6 suspended or revoked."

7 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9 disciplinary action during the period within which the license may be renewed, restored, reissued
10 or reinstated.

11 **STATUTORY PROVISIONS**

12 6. Section 4301 of the Code states:

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

16 (a) Gross immorality.

17 ...

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

20 ...

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

22 ...

23 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
24 abetting the violation of or conspiring to violate any provision or term of this
25 chapter or of the applicable federal and state laws and regulations governing
26 pharmacy, including regulations established by the board or by any other state or
27 federal regulatory agency.

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1 **FACTS**

2 13. On December 6, 2010, Respondent was working as a pharmacy technician at
3 PharMerica Pharmaceutical Company ("PharMerica") in San Diego, California. Respondent was
4 an order entry technician, a clerical position at the pharmacy that does not require her to be in the
5 narcotic filling area of the pharmacy. However, on or about December 6-7, 2010, video
6 surveillance shows Respondent going into the drug filling station where another pharmacy
7 technician observed Respondent packaging and labeling a controlled substance prescription.
8 Respondent was then observed preparing a manifest for the medication. The dispensed
9 prescription was never checked by a pharmacist for accuracy as required. Instead Respondent
10 was observed taking the filled prescription and the manifest to the driver's area where it was
11 picked up for delivery by driver J.C.

12 14. A prescription for Norco 10/325, 30 tablets was dispensed and delivered on
13 December 7, 2010 at 2:15 a.m. and the delivery was verified by a signed delivery manifest. At
14 approximately 4:15 p.m., Respondent reprinted two additional labels for the same prescription
15 (total of 60 tablets).

16 15. On December 10, 2010, Respondent reprinted a label for another prescription for
17 Norco 10/325, 120 tablets, using a computer assigned to a pharmacy filling technician. Four
18 other pharmacy technicians observed Respondent fill the prescription, take it to the drivers' pick
19 up area and hand the medication to J.C., although J.C. was not scheduled to work that day.

20 16. On December 30, 2010, the Board received a report of theft of controlled substances
21 from PharMerica. The Pharmacist in Charge (PIC) for PharMerica reported that Respondent stole
22 Norco 10/325 from the pharmacy and that 1,996 tablets were unaccounted for.

23 17. An audit of the pharmacy revealed the following unaccounted for medications:

24 42 tablets of Tylenol #3;

25 65 tablets of Xanax; 0.25 mg.;

26 44 tablets of Xanax 0.5 mg.;

27 410 tablets of Lorcet 10/650 mg.;

28 1,996 tablets of Norco 10/325 mg.;

1 59 tablets of hydrocodone 7.5/500 mg.; and

2 43 tablets of Norco 5/325 mg.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct - Commission of Acts Involving**
5 **Gross Immorality, Moral Turpitude, Dishonesty, Fraud, Deceit & Corruption)**

6 18. Respondent is subject to disciplinary action under section 4301, subdivisions (a) and
7 (f) of the Code in that on or about December 6-7, 2010 and December 10, 2010, Respondent was
8 observed diverting controlled substances and dangerous drugs from her employer, acts involving
9 gross immorality, fraud, deceit, and dishonesty, as detailed in paragraphs 13-17, above, which
10 paragraphs are hereby incorporated by reference. Such conduct is substantially related to the
11 qualifications, duties, and functions of a pharmacy technician.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct - Possession and Furnishing of**
14 **Controlled Substances Without an Authorized Prescription)**

15 19. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
16 Code in that on or about December 6-7, 2010 and December 10, 2010, Respondent knowingly
17 violated Business and Professions Code sections 4059 and 4060 in that she possessed and
18 furnished dangerous drugs without an authorized prescription, as detailed in paragraphs 13-17,
19 above, which paragraphs are hereby incorporated by reference. Such conduct is substantially
20 related to the qualifications, duties, and functions of a pharmacy technician.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct - Violating and/or Conspiring to**
23 **Violate Federal and State Laws Governing Pharmacy)**

24 20. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
25 Code in that on or about December 6 -7 and December 10, 2010, Respondent violated or
26 attempted to violate, directly or indirectly, or conspired to violate provisions of this chapter (the
27 Pharmacy Law, Bus. & Prof. Code, § 4000 et seq.), including Code sections 4059 and 4060, as
28

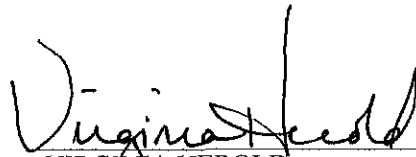
1 detailed in paragraphs 13-17, above, which paragraphs are hereby incorporated by reference.
2 Such conduct is substantially related to the qualifications, duties, and functions of a pharmacy
3 technician.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 56601,
8 issued to Dulce Jacqueline Yepiz
- 9 2. Ordering Dulce Jacqueline Yepiz to pay the Board of Pharmacy the reasonable costs
10 of the investigation and enforcement of this case, pursuant to Business and Professions Code
11 section 125.3; and
- 12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: 7/12/13


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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22 accusation.rtf
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