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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:  
13 **ENSI CAIDENCE BOLOUHARI**  
9808 Fair Oaks Blvd, 604  
14 Fair Oaks, CA 95628

Case No. 4474

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

15 Intern Pharmacist Registration No. INT 28445  
(From 10/5/2011 to Present)  
16 Pharmacy Technician Registration No. TCH  
96670  
17 (From 12/22/2009 to 9/30/2011)

18 Respondent.  
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20  
21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity  
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 25 2. On or about October 5, 2011, the Board of Pharmacy ("Board") issued Intern  
26 Pharmacist Registration Number INT 28445 to Ensi Caidence Bolouhari ("Respondent"). The  
27 Intern Pharmacist Registration will expire on May 31, 2016, unless renewed.  
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1       3.    On or about December 22, 2009, the Board issued Pharmacy Technician Registration  
2 Number TCH 96670 to Respondent. The Pharmacy Technician Registration was set to expire  
3 September 30, 2011 and was cancelled due to a status change.

4                                       **JURISDICTION**

5       4.    This Accusation is brought before the Board, under the authority of the following  
6 laws.

7                                       **STATUTORY PROVISIONS**

8       5.    Business and Professions Code section 118, subdivision (b),<sup>1</sup> provides that the  
9 suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of  
10 jurisdiction to proceed with a disciplinary action during the period within which the license may  
11 be renewed, restored, reissued or reinstated.

12       6.    Section 4300 provides that every license issued by the Board is subject to discipline,  
13 including suspension or revocation.

14       7.    Section 4301 states, in pertinent part:

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

18           ...

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

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

24           ...

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

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27           <sup>1</sup> All further statutory references are to the Business and Professions Code unless  
28 otherwise indicated.

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

8. Health and Safety Code section 11170 states, "No person shall prescribe, administer, or furnish a controlled substance for himself."

9. Health and Safety Code section 11173 states, in pertinent part:

"(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

"(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

"(c) No person shall, for the purpose of obtaining controlled substances, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, registered nurse, physician's assistant, or other authorized person."

10. Section 4324 states:

"(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

"(b) Every person who has in his or her possession any drugs secured by a forged prescription shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year."

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1 **DANGEROUS DRUG**

2 11. Section 4022 states:

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

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

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

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

12 12. Alprazolam is the generic name for Xanax and is a dangerous drug pursuant to  
13 Section 4022. It is a controlled substance as designated by Section 4021 and Health and Safety  
14 Code section 11057.

15 **COST RECOVERY**

16 13. Section 125.3 states, in pertinent part, that the Board may request the administrative  
17 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
18 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
19 case.

20 **FIRST CAUSE FOR DISCIPLINE**

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

22 14. Respondent is subject to disciplinary action under Section 4301, subdivision (f), in  
23 that Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit, or  
24 corruption. The circumstances are as follows:

25 15. On January 31, 2011, Dr. E.A. prescribed #100 Alprazolam 2 mg with two refills for  
26 Respondent. On February 3, 2011, Respondent's prescription was processed by Costco Pharmacy  
27 117 ("Costco"), located at 5700 Lindero Canyon Road in Westlake Village, under Rx no. 840057.  
28 Respondent obtained her first refill under the prescription on May 5, 2011. Respondent's second

1 refill could not be processed because of a six-month statutory limitation on dispensing controlled  
2 substances from the date the prescription was written. On August 13, 2011, Respondent  
3 fraudulently authorized and processed her own prescription refill for Alprazolam by forging a  
4 refill authorization request for herself and processing the prescription at her place of work,  
5 Costco. Respondent processed the refill under Pharmacy Technician M.J.'s initials without  
6 M.J.'s knowledge. On the same day, the refill authorization request was intercepted by M.J.  
7 when he noticed that it had been processed under his initials and that the request looked  
8 suspicious. The refill authorization request was dated August 13, 2011 and appeared to be  
9 authorized by "Bonnie" with an illegible signature. M.J. reported the incident to Pharmacist S.R.  
10 S.R. held the prescription back for investigation.

11 On August 15, 2011, at approximately 8 a.m., Costco Pharmacist T.M. called Dr.  
12 E.A.'s office to inquire as to the validity of the prescription. The office manager, Bonnie D., told  
13 T.M. that she did not approve the refill and that she was not even working on August 13, 2011.  
14 On the same day, at approximately 10 a.m., Bonnie D. called T.M. back and told her that  
15 Respondent had called her to ask that she (Bonnie D.) call Costco to say she approved the  
16 prescription. At approximately 2 p.m., Dr. E.A. called Costco and told T.M. that Respondent was  
17 in her office and that she was calling to confirm, in front of Respondent, that neither the doctor  
18 nor her office approved a refill for her prescription and that the last approval was written on  
19 January 31, 2011. Soon thereafter, Respondent abandoned her shifts at Costco by failing to come  
20 to work, and was eventually terminated from her position.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Forging a Prescription Refill)**

23 16. Respondent is subject to disciplinary action under Sections 4301, subdivisions (g),  
24 and 4324, in that Respondent forged a prescription refill for Alprazolam. Complainant refers to,  
25 and by this reference incorporates, the allegations set forth above in paragraph 15, as though set  
26 forth fully herein.

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**THIRD CAUSE FOR DISCIPLINE**

**(Prescribing a Controlled Substance)**

17. Respondent is subject to disciplinary action under Section 4301, subdivision (j), and Health and Safety Code section 11170, in that Respondent prescribed a controlled substance to herself. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 15, as though set forth fully herein.

**FOURTH CAUSE FOR DISCIPLINE**

**(Attempting to Unlawfully Possess a Controlled Substance)**

18. Respondent is subject to disciplinary action under Section 4301, subdivision (j), and Health and Safety Code section 11173 in that Respondent forged a prescription refill in an attempt to procure the prescription for a controlled substance, to wit: Alprazolam. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 15, as though set forth fully herein.

**FIFTH CAUSE FOR DISCIPLINE**

**(Violation of State Laws and Regulations Governing Pharmacy)**

19. Respondent is subject to disciplinary action under Section 4301, subdivision (o), in that Respondent committed an act or several acts in violation of the state laws and regulations governing pharmacy, including regulations established by the Board or by any other state or federal regulatory agency. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 15 through 18, inclusive, as though set forth fully herein.

**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:

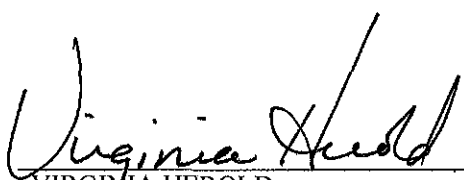
- 1. Revoking or suspending Intern Pharmacist Registration Number INT 28445, issued to Respondent;
- 2. Revoking or suspending Pharmacy Technician Registration Number TCH 96670, previously issued to Respondent and cancelled;

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3. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Section 125.3;

4. Taking such other and further action as deemed necessary and proper.

DATED: 9/6/13



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

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