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7	DEFOR					
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER A FEATING					
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA					
10	Y II DA II CII A	G N 4706				
11	In the Matter of the Accusation Against:	Case No. 4726				
12	IAN WADE LIVINGSTON 1640 Cordova Avenue					
13	Redlands, CA 92737	ACCUSATION				
14	Pharmacy Technician Registration No. TCH 77					
15	Respon	ndent.				
16						
17	Complainant alleges:					
18	PART					
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as					
20	the Executive Officer of the Board of Pharmacy, D	epartment of Consumer Affairs.				
21	2. On or about July 14, 2007, the Board of Pharmacy issued Pharmacy Technician					
22	Registration Number TCH 77213 to Ian Wade Livingston (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 November 30, 2014, 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.					
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STATUTORY PROVISIONS

4. Section 4059, subdivision (a) states, in pertinent part:

"A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7."

- 5. Section 4060 provides in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or other authorized prescriber.
- 6. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.
 - 7. Section 4300.1 states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

8. Section 4301 states, in pertinent part:

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

. . . .

"(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 a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

. . . .

"(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or administering, or offering to sell, furnish, give away, or administer, any controlled substance to an addict.

. . .

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

. . .

"(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."

REGULATORY PROVISIONS

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

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

COST RECOVERY

10. Section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCE/DANGEROUS DRUG

11. "Hydrocodone" is a Schedule II controlled substance as designated by the Health and Safety Code section 11055, subdivision (b)(1)(i), and is categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Obtained or Possessed a Controlled Substance)

12. Respondent is subject to disciplinary action under section 4301, subdivision (j), as defined in section 4060, in that between January 2010 and November 2010, while working as a pharmacy technician at CVS, Respondent, by his own written admission, stole controlled substances from his employer on numerous occasions (to wit: approximately 40 hydrocodone/APAP 10-325 tablets), for his own personal consumption.

SECOND CAUSE FOR DISCIPLINE

(Furnishing Controlled Substances Without a Prescription)

13. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and (i), as defined in section 4059, subdivision (a), in that between January 2010 and November 2010, while working as a pharmacy technician at CVS, Respondent, by his own written admission, stole controlled substances from his employer on numerous occasions (to wit: a total of 40 hydrocodone/APAP 10-325 tablets), for his own personal consumption.

THIRD CAUSE FOR DISCIPLINE

(Dishonest Acts)

14. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that between January 2010 and November 2010, while working as a pharmacy technician at CVS, Respondent, by his own written admission, stole controlled substances from his employer on numerous occasions (to wit: a total of 40 hydrocodone/APAP 10-325 tablets), for his own personal consumption.

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FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Violation of Licensing Chapter)

15. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that Respondent committed acts of unprofessional conduct and/or violated provisions of the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 12-14, as though set forth fully.

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 77213, issued to Ian Wade Livingston;
- 2. Ordering Ian Wade Livingston 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; and
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: _	6/16/14	Queino	- Shell	/
	1 1	VIRGINIA HEROL	D	

Executive Officer
Board of Pharmacy

Department of Consumer Affairs

State of California Complainant

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