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

11 In the Matter of the Accusation Against:

Case No. 4727

12 **THUCUC THI TRAN**  
13 **3112 Ascot Court**  
**Richmond, CA 94806**

**ACCUSATION**

14 **Pharmacy Technician Registration No.**  
15 **TCH 109598**

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 December 29, 2010, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 109598 to Thucuc Thi Tran (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought in this  
25 Accusation and will expire on January 31, 2014, unless renewed.

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1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 STATUTORY PROVISIONS

4 7. Section 4301 of the Code states, in relevant part:

5 "The board shall take action against any holder of a license who is guilty of unprofessional  
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 ...

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

12 ...

13 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the  
14 board."

15 8. Section 4059 of the Code states, in relevant part:

16 "(a) A person may not furnish any dangerous drug, except upon the prescription of a  
17 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
18 3640.7. A person may not furnish any dangerous device, except upon the prescription of a  
19 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
20 3640.7."

21 9. Section 4060 of the Code states:

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

1 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
2 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
3 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
4 labeled with the name and address of the supplier or producer.

5 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a  
6 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and  
7 devices."

8 10. Section 4022 of the Code states

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

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

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

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

#### 18 DRUG STATUTES

19 11. Hydrocodone/APAP is a Schedule III controlled substance as designated by Health  
20 and Safety Code section 11056, subdivision (e)(4), and a dangerous drug as designated by  
21 Business and Professions Code section 4022. Hydrocodone is a pain medication and is combined  
22 with Acetaminophen. Norco is a brand name of the controlled substance, Hydrocodone.

23 12. Carisoprodol is a Schedule IV controlled substance as designated by Health and  
24 Safety Code section 11057 and is a dangerous drug as designated by Business and Professions  
25 Code section 4022. Soma is a brand name of the controlled substance, Carisoprodol.

26 13. Metronidazole is a dangerous drug as designated by Business and Professions Code  
27 section 4022. Flagyl is a brand name of the substance, Meronidazole.

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1 COST RECOVERY

2 14. Section 125.3 of the Code states, in relevant part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 FACTUAL BACKGROUND

7 15. Respondent worked as a pharmacy technician at CVS Pharmacy # 3053 (CVS) in El  
8 Cerrito, California, from on or about March 10, 2011, until on or about September 19, 2012.  
9 From on or about April 30, 2011, to on or about September 18, 2012, Respondent stole drugs  
10 from CVS while she was working as a pharmacy technician. Specifically, on or about June 15,  
11 2012, to on or about September 18, 2012, Respondent stole 779 tablets of Carisoprodol 350 mg.  
12 On or about April 30, 2011, to on or about September 18, 2012, Respondent stole 436 tablets of  
13 Hydrocodone/Acetaminophen 10/325 mg. On or about June of 2012, to on or about September of  
14 2012, Respondent stole one tube of metronidazole gel.

15 16. CVS had suspected Respondent of possibly taking drugs because drugs were missing  
16 from the pharmacy. On or about September 18, 2012, Satish C. Putta, a CVS Pharmacy  
17 Supervisor, and Shannon Prior, a CVS Regional Loss Prevention Manager, interviewed  
18 Respondent about the theft of Carisoprodol 350 mg and Hydrocodone/APAP 10/325 mg from  
19 CVS Pharmacy 3053. Respondent admitted to stealing 661 tablets of Carisoprodol 350 mg,  
20 valued at \$368.99, 140 tablets of Hydrocodone 10/325 mg, valued at \$109.99, and 1 tube of  
21 Metronidazole, valued at \$73.99. Respondent admitted that she stole the Carisoprodol for her  
22 sick father and stole the Metronidazole for herself because she was too embarrassed to go to a  
23 doctor and get a valid prescription for it. On or about September 18, 2012, Respondent was  
24 arrested by an El Cerrito Police Department officer and admitted to stealing about 20 tablets of  
25 Hydrocodone/acetaminophen 10/325 mg, and about 50 to 100 tablets of Carisoprodol 350 mg.  
26 Respondent told the officer that she stole those medications for her sick father. Respondent also  
27 admitted to the officer that she stole one dosage unit of Metronidazole 500 mg for herself, due to  
28 a "women's hygiene issue."

1 **FIRST CAUSE FOR DISCIPLINE**  
2 **(Furnishing Dangerous Drugs without a Prescription)**  
3 **(Bus. & Prof Code 4059, subd. (a))**

4 17. Respondent has subjected her Pharmacy Technician License to disciplinary action  
5 under Code section 4059, subdivision (a), in that she furnished controlled substances and  
6 dangerous drugs to a person, her father, without a prescription. The circumstances are explained  
7 more fully in paragraphs 15 and 16, above.

8 **SECOND CAUSE FOR DISCIPLINE**  
9 **(Unprofessional Conduct--Act of Dishonesty, Fraud, or Deceit)**  
10 **(Bus & Prof. Code 4301, subd. (f))**

11 18. Respondent has subjected her Pharmacy Technician License to disciplinary action  
12 under Code section 4301, subdivision (f), in that she stole prescription drugs from CVS, her  
13 employer. The circumstances are explained more fully in paragraphs 15 and 16, above.

14 **THIRD CAUSE FOR DISCIPLINE**  
15 **(Possession of Controlled Substance without a Prescription)**  
16 **(Bus. & Prof. Code 4060)**

17 19. Respondent has subjected her Pharmacy Technician License to disciplinary action  
18 under Code section 4060, in that she possessed controlled substances without a prescription. The  
19 circumstances are explained more fully in paragraphs 15 and 16, above.

20 **FOURTH CAUSE FOR DISCIPLINE**  
21 **(Unprofessional Conduct-Subversion of Investigation)**  
22 **(Bus. & Prof. Code 4301, subd. (q))**

23 20. Respondent has subjected her Pharmacy Technician License to disciplinary action  
24 under Code section 4301, subdivision (q), in that she subverted or attempted to subvert an  
25 investigation by the Board of Pharmacy. Specifically, Respondent failed to respond to  
26 correspondence from the Board of Pharmacy regarding her theft of controlled substances from  
27 CVS. Correspondence was sent to Respondent on February 13, 2013, requesting that she contact  
28 the Board upon receiving the letter. Respondent did not respond to this letter.

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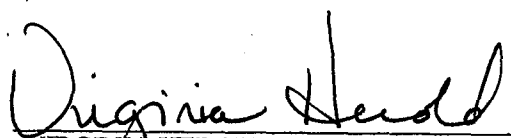
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PRAAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 109598, issued to Thucuc Thi Tran;
2. Ordering Thucuc Thi Tran 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: 11/4/13

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

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