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

10 In the Matter of the Accusation Against:

Case No. 4729

11 **WINDI MICHELLE HALL**
12 **2089 E. Duron**
13 **Colton, CA 92324**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **53571**

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 January 2, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 53571 to Windi Michelle Hall ("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 October 31, 2015, 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 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 7. Section 4301 of the Code states, in pertinent part:

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

7

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

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 8. Section 4323 of the Code states, in pertinent part:

20 Every person who, in order to obtain any drug, falsely represents himself or herself to be a
21 physician or other person who can lawfully prescribe the drug, or falsely represents that he or she
22 is acting on behalf of a person who can lawfully prescribe the drug, in a telephone or electronic
23 communication with a pharmacist, shall be punished by imprisonment in the county jail for not
24 more than one year.

25 9. Section 4324 of the Code states, in pertinent part:

26 Every person who signs the name of another, or of a fictitious person, or falsely makes,
27 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any
28 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment pursuant

1 to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county jail for not
2 more than one year.

3 (b) Every person who has in his or her possession any drugs secured by a forged
4 prescription shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the
5 Penal Code, or by imprisonment in the county jail for not more than one year.

6 10. Health and Safety Code section 11170 states, "[n]o person shall prescribe, administer,
7 or furnish a controlled substance for himself."

8 11. Health and Safety Code section 11173, subdivision states:

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

12 **CONTROLLED SUBSTANCE/DANGEROUS DRUG**

13 12. Norco, a brand name for hydrocodone/apap, is a Schedule III controlled substance
14 pursuant to Health and Safety Code section 11056, subdivision (e)(4) and is a dangerous drug
15 pursuant to Code section 4022.

16 **COST RECOVERY**

17 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licentiate found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
21 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
22 included in a stipulated settlement.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Dishonest Acts/False Representation)**

25 14. Respondent is subject to disciplinary action under Code section 4301, subdivisions
26 (f), (j), and (o) in conjunction with sections 4323 and 4324 of the Code, on the grounds of
27 unprofessional conduct in that Respondent committed acts of dishonesty and false representation.

28 The circumstances are as follows:

1 (a) On or about May 25, 2012, Respondent's physician prescribed her Norco 5/325
2 #50 with no refills. Respondent, a pharmacy technician at Redlands Community Hospital
3 Pharmacy, filled the prescription, which became RX #P0055232, that same day at the pharmacy.

4 (b) On or about June 9, 2012, Respondent filled RX #P0055232 at Redlands
5 Community Hospital Pharmacy as a "duplicate label" despite having no refills on RX #P0055232
6 and not having a new prescription for Norco authorized by her physician.

7 (c) On or about July 6, 2012, Respondent's physician authorized two refills on RX
8 #P0055232. Respondent filled the two authorized refills on RX #P0055232 on July 6, 2012 and
9 July 24, 2012 at Redlands Community Hospital Pharmacy.

10 (d) On or about August 3, 2012, Respondent filled RX #P0055232 at Redlands
11 Community Hospital Pharmacy as a "duplicate label" despite having no remaining refills on RX
12 #P0055232.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unlawful Possession of a Controlled Substance)**

15 15. Respondent is subject to disciplinary action under Code sections 4060 and 4301,
16 subdivision (o) on the grounds of unprofessional conduct in that Respondent violated the
17 Pharmacy Law by unlawfully possessing a controlled substance, to wit: Norco. Complainant
18 incorporates by reference Paragraph 12, subparagraphs (a) through (d), inclusive, as though fully
19 set forth herein.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Violating Drug Statutes)**

22 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
23 in conjunction with Health and Safety Code sections 11170 and 11173, subdivision (a), on the
24 grounds of unprofessional conduct in that Respondent violated rules and regulations relating to
25 statutes governing controlled substances by furnishing herself Norco and by obtaining Norco by
26 fraud. Complainant incorporates by reference Paragraph 12, subparagraphs (a) through (d),
27 inclusive, as though fully set forth herein.

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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 53571, issued to Windi Michelle Hall;
2. Ordering Windi Michelle Hall 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: 9/28/14 Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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