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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4732

13 **EDWIN S. GARCIA**  
22031 Schoolcraft  
Canoga Park, CA 91303

**ACCUSATION**

14 Pharmacy Technician Registration No. TCH 43036

15 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 (Board).

21 2. On or about February 26, 2002, the Board issued Pharmacy Technician Registration  
22 No. TCH 43036 to Edwin S. Garcia (Respondent). The Pharmacy Technician Registration was in  
23 full force and effect at all times relevant to the charges brought herein and expired on February  
24 28, 2014, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following  
27 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
28 indicated.



1           7.    Section 4021 of the Code states:

2            "Controlled substance' means any substance listed in Chapter 2 (commencing with Section  
3 1153) of Division 10 of the Health and Safety Code."

4           8.    Section 4022 of the Code states

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

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

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

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

15           9.    Section 4059, subdivision (a), of the Code states:

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

21           10.   Section 4060 of the Code states:

22            No person shall possess any controlled substance, except that furnished to a  
23 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or  
24 furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to  
25 Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician  
26 assistant pursuant to Section 3502.1. This section shall not apply to the possession of  
27 any controlled substance by a manufacturer, wholesaler, pharmacy, physician,  
28 podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or  
physician assistant, when in stock in containers correctly labeled with the name and  
address of the supplier or producer.

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

          11.   Health and Safety Code section 11171 provides that "No person shall prescribe,  
administer, or furnish a controlled substance except under the conditions and in the manner  
provided by this division.





1 23. The PIC reviewed the patient's history and looked for the approval slips for all the  
2 Norco and Soma prescriptions. Upon review, the PIC found that all the prescriptions for this  
3 patient were authorized by "Liz" and taken down by Respondent. She forwarded her notes to the  
4 Loss Prevention Office.

5 24. Costco Loss Prevention conducted an investigation into the matter. Through their  
6 investigation, they discovered that Respondent had created a fake patient profile, of "Carlos  
7 Gonzales." Using that fake patient, Respondent had filled prescriptions for Norco and Soma.  
8 Costco found Respondent had filed 58 fraudulent scripts in the name of "Carlos Gonzales" since  
9 October 31, 2009.

10 25. Respondent told the Costco investigators that he had been filing prescriptions for the  
11 fake patient for about six (6) months. He said he would take the medications that were filled in  
12 "Carlos Gonzales" name from the store without paying for them, and sell them to his friends for  
13 \$600 per month. He agreed to pay Costco back \$1,449.55.

14 26. When the Board investigator questioned Respondent on why he stole the medications,  
15 he stated it was for self-use and to sell to friends.

16 27. When the Board investigator conducted an audit on the number of Norco pills Costco  
17 had on hand from May 1, 2009 to December 26, 2011, the investigator found that Costco was  
18 missing 846 pills.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct – Furnishing of Controlled Substance(s))**

21 28. Respondent is subject to disciplinary action under Code section 4301, subdivisions  
22 (h), (j) and (o), and Code section 4059, in conjunction with Health and Safety Code section 11171  
23 and Health and Safety Code section 11351, in that Respondent furnished to himself or another  
24 without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of,  
25 controlled substances or dangerous drugs. Complainant refers to and by this reference  
26 incorporates the allegations set forth above in paragraphs 17 through 25, inclusive, as though set  
27 forth fully.

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**SECOND CAUSE FOR DISCIPLINE**

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

29. Respondent is subject to disciplinary action under Code section 4301, subdivision (f) and (o), on the grounds of unprofessional conduct, in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 17 through 25, inclusive, as though set forth fully.

**THIRD CAUSE FOR DISCIPLINE**

**(Possession of Dangerous Drugs and Controlled Substances Without a Valid Prescription)**

30. Respondent is subject to disciplinary action under Code section 4301, subdivision (j) and (o), and Code Section 4060, in conjunction with Health and Safety Code section 11350, subdivision (a), in that Respondent possessed, conspired to possess, or assisted in or abetted possession of dangerous drugs and controlled substances without a valid prescription. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 17 through 25, inclusive, as though set forth fully.

**FOURTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct – Acts Would Warrant Denial of License)**

31. Respondent is subject to disciplinary action under Code section 4301, subdivision (p) and (o), and Code Section 4060, in that Respondent committed acts that would have warranted a denial of a license. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 17 through 26, inclusive, 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:

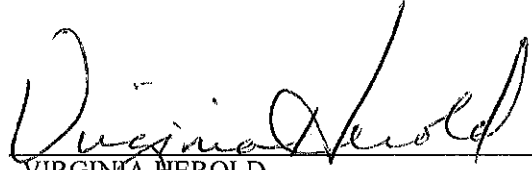
1. Revoking or suspending Pharmacy Technician Registration Number TCH 43036, issued to Edwin S. Garcia;

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2. Ordering Edwin S. Garcia 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;

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

DATED: 2/3/15



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

KV(2/2/15)