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

11
12 In the Matter of the Accusation Against:

Case No. 4734

13 **EDDIE M. JOHNSON**
14 **8346 Golden Avenue**
Lemon Grove, CA 91945

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **39901**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about December 6, 2001, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 39901 to Eddie M. Johnson (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 expired on July 31, 2013.
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28

JURISDICTION

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2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300(a) of the Code provides that every license issued by the Board may be
9 suspended or revoked.

10 6. Section 4300.1 of the Code states:

11 The expiration, cancellation, forfeiture, or suspension of a board-issued
12 license by operation of law or by order or decision of the board or a court of law,
13 the placement of a license on a retired status, or the voluntary surrender of a
14 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.

STATUTORY PROVISIONS & REGULATORY PROVISIONS

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16 7. Section 4022 of the Code states:

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

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

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

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

25 8. Section 4060 of the Code provides that no person shall possess a controlled substance
26 except that furnished to a person upon a valid prescription.

1 **DRUGS**

2 12. Hydromorphone is a Schedule II controlled substance pursuant to Health and Safety
3 Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions
4 Code section 4022.

5 **FACTUAL ALLEGATIONS**

6 13. Respondent was employed as a pharmacy technician at Sharp Memorial Hospital
7 Pharmacy located at 7901 Frost Street in San Diego, California, from July 8, 2002 to March 22,
8 2012.

9 14. On or about March 12, 2012, the hospital's housekeeper discovered Benadryl vials in
10 the men's bathroom trashcans. The next day, on or about March 13, 2012, the housekeeper again
11 discovered Benadryl vials in the trashcans in the men's bathroom. A couple days later on or
12 about March 15, 2012, the housekeeper found three vials of Benadryl 50 mg, two vials of 1ml
13 hydromorphone 10mg/ml and 1 vial of 5ml hydromorphone 10mg/ml in the trashcans in the
14 men's bathroom. The housekeeper also discovered controlled substance documentation sheets
15 with Respondent's name on them and a patient label for hydromorphone 11mg/55ml for patient
16 E.P. Following this discovery, the Pharmacist-in-Charge (PIC) initiated an internal investigation,
17 which included reviewing Pyxis¹ records and other pharmacy records. The following narcotic
18 discrepancies were attributed to Respondent:

19 a. On March 3, 2012 at 9:32 hours, Respondent removed 1 vial of hydromorphone
20 500mg (1 vial x 50ml 10mg/ml) from the Pyxis for patient S.L. There is no delivery receipt
21 reflecting that the hydromorphone was delivered to this patient. Therefore, Respondent failed to
22 account for 1 vial of hydromorphone 500mg (1 x 50ml 10mg/ml).

23
24 ¹ Pyxis is a trade name for the automated single-unit dose medication dispensing system
25 that delivers medications, typically narcotics and controlled substances, to an individual
26 authorized to access the system. The Pyxis records information such as patient name, physician
27 orders, date and time medication was withdrawn, and the name of the licensed individual who
28 withdrew and administered the medication. Each user/operator is given a user identification code
to operate the control panel. Sometimes only portions of the withdrawn narcotics are given to the
patient. The portions not given to the patient are referred to as "wastage." This waste must be
witnessed by another authorized user and is also recorded by the Pyxis machine.

1 b. On March 10, 2012 at 07:30 hours, Respondent removed 100 mg hydromorphone (2
2 vials x 5 ml amps at 10 mg/ml) from the Pyxis for patient H.K. There is no delivery receipt
3 reflecting that the hydromorphone was delivered to this patient. Therefore, Respondent failed to
4 account for 100 mg hydromorphone (2 vials x 5 ml amps at 10 mg/ml).

5 c. On March 10, 2012 at 09:12 hours, Respondent removed 1 vial of hydromorphone
6 500 mg (10mg/ml 50 ml vial) from the Pyxis for patient H.K. There is no delivery receipt
7 reflecting that the hydromorphone was delivered to this patient. Therefore, Respondent failed to
8 account for 1 vial of hydromorphone 500 mg (10mg/ml 50 ml vial).

9 d. On March 11, 2012 at 09:34 hours, Respondent removed 1 vial of hydromorphone
10 500 mg (10mg/ml 50 ml vial) from the Pyxis for patient H.K. There is no delivery receipt
11 reflecting that the hydromorphone was delivered to this patient. Therefore, Respondent failed to
12 account for 1 vial of hydromorphone 500 mg (10mg/ml 50 ml vial).

13 e. On March 15, 2012 at 11:46 hours, Respondent removed 20 mg of hydromorphone (2
14 vials x 1 ml 10mg/ml) from the Pyxis for patient E.P. Patient E.P. did not have a physician's
15 order for hydromorphone at or near the time of Respondent's removal of the drug. There is no
16 delivery receipt reflecting that the hydromorphone was delivered to this patient. Both vials were
17 discovered empty in the trashcan by the hospital housekeeper.

18 f. On March 15, 2015 at 11:47 hours, Respondent removed 100 mg of hydromorphone
19 (2 vials x 5 ml 10mg/ml) from the Pyxis for patient E.P. Patient E.P. did not have a physician's
20 order for hydromorphone at or near the time of Respondent's removal of the drug. There is no
21 delivery receipt reflecting that the hydromorphone was delivered to this patient. One of these
22 vials was discovered empty in the trashcan by the hospital housekeeper. The other vial was
23 unaccounted for.

24 15. On March 16, 2012 at 09:24 hours, Respondent inventoried diphenhydramine at a
25 Pyxis machine. The expected beginning count was 8 vials of diphenhydramine. Respondent
26 edited the beginning count to 6 vials of diphenhydramine, creating a discrepancy of 2 vials of
27 diphenhydramine. A witness saw Respondent place something in his pocket and then enter the
28

1 Cathlab restroom. Shortly thereafter, 3 vials of diphenhydramine were discovered in the trashcan
2 in the Cathlab restroom.

3 16. Respondent was terminated from his employment at Sharp on March 22, 2012 and the
4 discrepancies were reported to the Board of Pharmacy.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Dishonest Act)

7 17. Respondent is subject to disciplinary action under section 4301, subdivision (j) for
8 dishonest acts, in that Respondent falsified entries in hospital records by withdrawing medication
9 and charging the withdrawal to patients who did not receive the drugs, and for stealing drugs from
10 his employer, as set forth in as set forth in paragraphs 13 through 16, which are incorporated
11 herein by reference.

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Unlawful Possession of a Controlled Substance)

14 18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
15 (o) for violation of Business and Professions Code section 4060 for possessing a controlled
16 substance without a prescription, in that Respondent possessed hydromorphone without a
17 prescription as set forth in paragraphs 13 through 16, which are incorporated herein by reference.

18 **PRAYER**

19 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
20 and that following the hearing, the Board of Pharmacy issue a decision:

21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 39901,
22 issued to Eddie M. Johnson;

23 2. Ordering Eddie M. Johnson to pay the Board of Pharmacy the reasonable costs of the
24 investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3;

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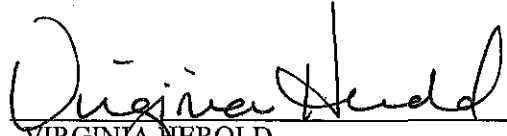
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/19/13



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

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