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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. 4956

11 **DANNY R. HILL**
12 **5450 Pescado Ct.**
13 **Atascadero, CA 93422**

ACCUSATION

14 **Pharmacy Technician Registration**
15 **No. TCH 28584**

Respondent.

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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 March 5, 1999, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 28584 to Danny R. Hill (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on October 31, 2016, 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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4. Section 4300 of the Code states, in pertinent part:

"(a) Every license issued may be suspended or revoked.

5. Section 4300.1 of the Code 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."

6. Section 4301 of the Code 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.

....

"(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.

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

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7. Section 4060 of the Code states, in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. . . ."

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

9. Health and Safety Code section 11173, subdivision states:

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

DRUG CLASSIFICATIONS

10. OxyContin, a brand name for Oxycodone, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, and is a dangerous drug pursuant to Code section 4022.

Hydrocodone/APAP 5/325 is a Schedule III controlled substance pursuant to Health and Safety Code section 11055 (e) (4), and is a dangerous drug pursuant to Code section 4022.

COST RECOVERY

11. Section 125.3 of the Code 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
4 on the grounds of unprofessional conduct in that Respondent committed acts involving
5 dishonesty, fraud, deceit or corruption. The circumstances are as follows:

6 (a) On or about June 14, 2011, the Board received a letter from the Pharmacist in
7 Charge (PIC) at St. John's Regional Medical Center reporting a loss of approximately 3002
8 tablets of controlled substances from March, 2010 to June, 2011. The loss was discovered during
9 the PIC's routine audit of Omnicell activities after noticing a discrepancy in an entry during
10 Respondent's shifts. A further audit revealed that Respondent accessed and removed 1116
11 Hydrocodone/APAP 5/325, 1086 OxyContin 80 mg., 684 OxyContin 40 mg., ten 10 mg, 61 20
12 mg, and 45 30 mg Oxycodone tablets from the Omnicell machine, then tried to cover up the theft
13 by using an unknown computer glitch to classify the drugs as "expired". The Omnicell reports
14 revealed that Respondent removed the drugs on his usual work days and while he was on FMLA
15 by using an electronic key to access the Omnicell machine.

16 **SECOND CAUSE FOR DISCIPLINE**

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

18 13. Respondent is subject to disciplinary action under Code sections 4060 and 4301,
19 subdivision (o) on the grounds of unprofessional conduct in that Respondent violated the
20 Pharmacy Law by unlawfully possessing controlled substances, OxyContin and Oxycodone.
21 Complainant incorporates by reference Paragraph 12, subparagraph (a), as though fully set forth
22 herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violating Drug Statutes)**

3 14. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
4 in conjunction with Health and Safety Code sections 11170 and 11173, subdivision (a), on the
5 grounds of unprofessional conduct in that Respondent violated rules and regulations relating to
6 statutes governing controlled substances by furnishing OxyContin and Oxycodone to himself by
7 fraud. Complainant incorporates by reference Paragraph 12, subparagraph (a), as though fully set
8 forth herein.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Subverting an Investigation)**

11 15. Respondent is subject to disciplinary action under Code section 4301, subdivision
12 (q), on the grounds of unprofessional conduct, in that Respondent subverted or attempted to
13 subvert an investigation of the Board. The circumstances are as follows:

14 16. On or about March 14, 2013, a Board investigator sent a letter to Respondent asking
15 him to send a statement to the Board regarding an investigation into a loss of controlled
16 substances at St. John's Regional Medical Center. Respondent failed to respond to the Board's
17 request.

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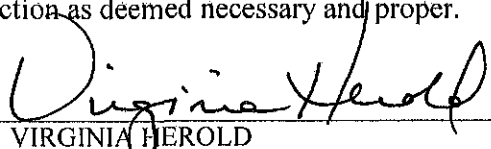
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PRAYER

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 28584, issued to Danny R. Hill
2. Ordering Danny R. Hill 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: 8/18/15



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

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