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BOARD OF PHARMACY			
STATE OF CONSUL			
Lette Matter of the Acquigation Appingte	Jo. 5019		
15325 Lake Berryessa Ct.	USATION		
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No. TCH 104205			
Respondent.			
Complainant alleges:			
PARTIES			
1. Virginia Herold ("Complainant") brings this	Accusation solely in her official capacity		
as the Executive Officer of the Board of Pharmacy, Dep	artment of Consumer Affairs.		
2. On or about June 24, 2010, the Board of Pha	rmacy ("Board") issued Pharmacy		
Technician Registration No. TCH 104205 to Susan Rene	Technician Registration No. TCH 104205 to Susan Renee Coons ("Respondent"). The Pharmacy		
Technician Registration was in full force and effect at al	Technician Registration was in full force and effect at all times relevant to the charges brought		
herein and will expire on November 30, 2015, unless re	herein and will expire on November 30, 2015, unless renewed.		
JURISDICTION			
3. This Accusation is brought before the Board	under the authority of the following		
laws. All section references are to the Business and Pro	laws. All section references are to the Business and Professions Code ("Code") unless otherwise		
indicated.			
1	Accusation		
	Attorney General of California THOMAS L. RINALDI Supervising Deputy Attorney General KRITHTHIKA VASUDEVAN Deputy Attorney General State Bar No. 247590 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2804 Attorneys for Complainant BEFORE THI BOARD OF PHARI DEPARTMENT OF CONSU STATE OF CALIFO In the Matter of the Accusation Against: SUSAN RENEE COON 15325 Lake Berryessa Ct. Bakersfield, CA 93314 Pharmacy Technician Registration No. TCH 104205 Respondent. Complainant alleges: <u>PARTIES</u> 1. Virginia Herold ("Complainant") brings this as the Executive Officer of the Board of Pharmacy, Dep 2. On or about June 24, 2010, the Board of Pha Technician Registration No. TCH 104205 to Susan Reno Technician Registration was in full force and effect at all herein and will expire on November 30, 2015, unless re <u>JURISDICTIO</u> 3. This Accusation is brought before the Board laws. All section references are to the Business and Pro indicated.		

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4. Section 118, subdivision (b) of the Code provides, in pertinent part, that the 1 expiration of a license shall not deprive the Board jurisdiction to proceed with a disciplinary 2 action during the period within which the license may be renewed, restored, reissued or 3 reinstated. 4 5. Section 4011 of the Code provides: 5 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and 6 Professions Code, Sec 4000 et esq.)] and the Uniform Controlled Substances Act (Division 10 7 commencing with Section 11000) of the Health and Safety Code)." 8 6. Section 4300 of the Code states, in pertinent part, that every license issued by the 9 Board is subject to discipline, including suspension or revocation. 10 STATUTORY PROVISIONS 11 Section 490 of the Code states, in pertinent part: 7 12 "(a) In addition to any other action that a board is permitted to take against a licensee, a 13 board may suspend or revoke a license on the ground that the licensee has been convicted of a 14 crime, if the crime is substantially related to the qualifications, functions, or duties of the business 15 or profession for which the license was issued. 16 "(b) Notwithstanding any other provision of law, a board may exercise any authority to 17 discipline a licensee for conviction of a crime that is independent of the authority granted under 18 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties 19 of the business or profession for which the licensee's license was issued. 20 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a 21 conviction following a plea of nolo contendere. Any action that a board is permitted to take 22 following the establishment of a conviction may be taken when the time for appeal has elapsed, or 23 the judgment of conviction has been affirmed on appeal, or when an order granting probation is 24 made suspending the imposition of sentence, irrespective of a subsequent order under the 25 provisions of Section 1203.4 of the Penal Code." 26 111 27 111 28 2

Accusation

8. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a 2 board within the department pursuant to law to deny an application for a license or to 3 suspend or revoke a license or otherwise take disciplinary action against a person who holds 4 a license, upon the ground that the applicant or the licensee has been convicted of a crime 5 substantially related to the qualifications, functions, and duties of the licensee in question, 6 the record of conviction of the crime shall be conclusive evidence of the fact that the 7 conviction occurred, but only of that fact, and the board may inquire into the circumstances 8 surrounding the commission of the crime in order to fix the degree of discipline or to 9 determine if the conviction is substantially related to the qualifications, functions, and 10 duties of the licensee in question." 11

As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

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9. Section 4301 of the Code states, in pertinent part:

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

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"(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.

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"(h) The administering to oneself, of any controlled substance, or the use of any
dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
injurious to oneself, to a person holding a license under this chapter, or to any other person
or to the public, or to the extent that the use impairs the ability of the person to conduct with
safety to the public the practice authorized by the license.

"(j) The violation of any of the statutes of this state, of any other state, or of the UnitedStates regulating controlled substances and dangerous drugs.

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

6 "(1) The conviction of a crime substantially related to the qualifications, functions, and 7 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 8 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 9 substances or of a violation of the statutes of this state regulating controlled substances or 10 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . A plea or verdict of 11 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the 12 meaning of this provision."

14 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
15 violation of or conspiring to violate any provision or term of this chapter or of the applicable
16 federal and state laws and regulations governing pharmacy, including regulations established by
17 the board or by any other state or federal regulatory agency."

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

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

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11. Section 4060 of the Code states:

25 "No person shall possess any controlled substance, except that furnished to a
26 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished
27 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
28 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section

3502.1. This section shall not apply to the possession of any controlled substance by a
 manufacturer, wholesaler, pharmacy, physician, 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.

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

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REGULATORY PROVISIONS

11 13. California Code of Regulations, title 16, section 1770, states, in pertinent part:
12 "For the purpose of denial, suspension, or revocation of a personal or facility license
13 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
14 crime or act shall be considered substantially related to the qualifications, functions or duties of a
15 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
16 licensee or registrant to perform the functions authorized by his license or registration in a manner
17 consistent with the public health, safety, or welfare."

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CONTROLLED SUBSTANCE/DANGEROUS DRUG

14. Section 4021 of the Code states:

"Controlled substance" means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

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15. Section 4022 of the Code states, in pertinent part:

"Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and including the following:

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

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

16. The following drugs are referenced herein:

	GENERIC NAME	DANGEROUS	CONTROLLED	INDICATION FOR
BRAND NAME		DRUG PER	SUBSTANCE PER	USE
		Code Section	Health and Safety Code	
		4022	(HSC)	
Norco	Hydrocodone /	Yes	HSC 11056 (e)(4)	Pain
	Acetaminophen			
	(APAP)			
Xanax	Alprazolam	Yes	HSC 11057 (d)(1)	Anxiety
Soma	Carisoprodol	Yes	No	Muscle relaxe
Ativan	Lorazepam	Yes	HSC 11057(d)(16)	Anxiety
Viagra				
_	Sildenafil	Yes	No	Erectile
				dysfunction
	Trazadone	Yes	No	Antidepressan

COST RECOVERY

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

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FACTUAL BACKGROUND

18 18. Respondent worked at CVS Pharmacy, located at 8200 Stockdale Hwy, Suite 9,
19 Bakersfield, California.

20 19. On or around January 10, 2014, the store conducted an investigation due to
21 unexplained CVS Money Card entries. Respondent was questioned about possible thefts on
22 January 28, 2014.

23 20. Respondent stated she had been working at the store since March 2013. In or around
 24 March 2013, Respondent started taking medication home to her boyfriend. Her boyfriend would
 25 sell the medications.

26 21. Respondent would take the drugs from the pharmacy and put them in vials. When no
27 one was looking she would pour the contents of the vials in her pocket and discard the vials.

1	22. She took approximately eighty bottles of Hydrocodone, approximately sixty bottles of
2	Alprazolam, two to three bottles of Viagra, two to three bottles of Carisoprodol, and
3	approximately one bottle of Lorazepam.
4	23. The last time she took drugs from the pharmacy was about a week prior to January
5	28, 2014.
6	24. At some point, she began stealing gift cards. She would use the gift cards to get
7	cigarettes and alcohol.
8	25. She stole about ten to twelve gift cards worth approximately \$151.99/each.
9	26. She admitted she took Hydrocodone approximately one to three times a week.
10	27. She admitted she took Alprazolam approximately one to two times a week.
11	28. She admitted that she caused the store a loss of about \$12,944.81.
12	FIRST CAUSE FOR DISCIPLINE
13	(Unprofessional Conduct – Furnishing of Controlled Substance(s))
14	29. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
15	(j) and (o), and 4059, in conjunction with Health and Safety Code section 11171, in that
16	Respondent furnished to herself or another without a valid prescription, controlled substances or
17	dangerous drugs. Complainant refers to and by this reference incorporates the allegations set
18	forth above in paragraphs 18 through 28, inclusive, as though set forth fully.
19	SECOND CAUSE FOR DISCIPLINE
20	(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)
21	30. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
22	and (o), on the grounds of unprofessional conduct, in that Respondent committed acts involving
23	moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by this
24	reference incorporates the allegations set forth above in paragraphs 18 through 28, inclusive, as
25	though set forth fully.
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THIRD CAUSE FOR DISCIPLINE

(Possession of Dangerous Drugs and Controlled Substances Without a Valid Prescription) 31. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j) and (o), and 4060, in that Respondent possessed, dangerous drugs and controlled substances without a valid prescription. Complainant refers to and by this reference incorporates the allegations set forth above in paragraphs 18 through 28, inclusive, as though set forth fully.

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FOURTH CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

32. Respondent is subject to disciplinary action under sections 4301, subdivision (I) and 9 490 of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in 10that, Respondent was convicted of a crime substantially related to the qualifications, functions or 11 12 duties of a pharmacy technician. On or about August 4, 2014, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 647(f) 13 [public intoxication] in the criminal proceeding entitled The People of the State of California y. 14 Susan Coons (Super. Ct. Kern County, 2014, No. BM827018A). The Court placed Respondent 15 on three years probation, with terms and conditions. The circumstances surrounding this 16 conviction are that on or about July 31, 2013, a California Highway Patrol officer approached a 17 18 car parked approximately ten feet from the curb. The officer saw Respondent in the driver seat slumped over. The officer woke the Respondent up. He could smell an odor of alcohol emitting 19 from the car. The officer asked Respondent to exit the car. When she did, she could not maintain 20 her balance and required the officer's assistance to stand. Her speech was so slurred that the 21 officer could not understand her. The officer transported her to the sheriff's station to conduct a 22 breath test. Respondent's breath test result came back with a blood alcohol level of .22/.23%. 23

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FIFTH CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

33. Respondent is subject to disciplinary action under section 4301, subdivision (h)
and (k) of the Code, in that on or about August 4, 2014, Respondent used alcohol to the extent or
in a manner, dangerous or injurious to herself, another person or the public. Complainant refers

1	to, and by this reference incorporates, the allegations set forth above in paragraph 32, as though
2	set forth fully.
3	SIXTH CAUSE FOR DISCIPLINE
4	(Violation of Pharmacy Act)
5	34. Respondent is subject to disciplinary action under section 4301, subdivision (o) of
6	the Code, on the grounds of unprofessional conduct, in that Respondent was convicted of a crime
7	substantially related to the qualifications, functions or duties of a pharmacy technician and
8	committed acts in violation of the Pharmacy Act. Complainant refers to; and by this reference
9	incorporates, the allegations set forth above in paragraph 32, as though set forth fully.
10	DISCIPLINARY CONSIDERATIONS
11	35. In order to determine the degree of discipline, if any to be imposed on Respondent,
12	Complainant alleges the following:
13	a. On or about November 30, 2012, the Board issued Citation and Fine No. CI 2011
14	50330 to Respondent for violating section 4301, subdivision (h) and (l), resulting in an issuance
15	of a \$400.00 fine. Respondent has complied with the citation. The citation was based upon
16	Respondent's conviction that she sustained or about October 4, 2012, after pleading guilty to
17	violating misdemeanor Vehicle Code section, 23152 subdivision (a) [driving while under the
18	influence of alcohol] in the criminal proceeding entitled The People of the State of California v.
19	Susan Renee Coon (Super. Ct. Kern County, 2012, No. BM795934A). The Court placed
20	Respondent on two years probation and ordered her to serve two days in jail, and pay a fine
21	b. On or about August 6, 2013, the Board issued Citation and Fine No. CI 2012 56194
22	to Respondent for violating section 4301, subdivisions (h) and (l), resulting in the issuance of a
23	\$400.00. Respondent has complied with the Citation. The citation was based upon Respondent's
24	conviction that she sustained on or about April 11, 2013, after pleading guilty, to one
25	misdemeanor count of violating Penal Code section 647, subdivision (f) [public intoxication] in
26	the criminal proceeding entitled The People of the State of California v. Susan Renee Coon
27	(Super. Ct. Kern County, 2013, No. BM280204A). The Court ordered Respondent to pay fines.
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1	PRAYER				
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,				
3	and that following the hearing, the Board issue a decision:				
4	1. Revoking or suspending Pharmacy Technician Registration No. TCH 104205, issued				
5	to Susan Renee Coon;				
6	2. Ordering Susan Renee Coon to pay the Board the reasonable costs of the				
7	investigation and enforcement of this case, pursuant to section 125.3 of the Code; and				
8	3. Taking such other and further action as deemed necessary and proper.				
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11	DATED:				
12	VIRGINIA HEROLD Executive Officer				
13	Board of Pharmacy Department of Consumer Affairs				
14	State of California Complainant				
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