

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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. 5027

13 **MELISSA YVONE CARMONA**
206 S. Sullivan #63
14 Santa Ana, CA 92704

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **111525**

Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

24 2. On or about March 10, 2011, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 111525 to Melissa Yvone Carmona (Respondent). The Pharmacy
26 Technician Registration was in full force and effect at all times relevant to the charges brought
27 herein and will expire on April 30, 2014, unless renewed.
28

1 **JURISDICTION**

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 4300, subdivision (a) of the Code states "Every license issued may be
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued
9 license by operation of law or by order or decision of the board or a court of law,
10 the placement of a license on a retired status, or the voluntary surrender of a
11 license by a licensee shall not deprive the board of jurisdiction to commence or
12 proceed with any investigation of, or action or disciplinary proceeding against, the
13 licensee or to render a decision suspending or revoking the license.

12 **STATUTORY PROVISIONS**

13 6. Section 4301 of the Code states:

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

17

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

20

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

25

26 (j) The violation of any of the statutes of this state, of any other state, or of
27 the United States regulating controlled substances and dangerous drugs.

28

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violation of or conspiring to violate any provision or term of this
3 chapter or of the applicable federal and state laws and regulations governing
4 pharmacy, including regulations established by the board or by any other state or
5 federal regulatory agency.

6

7 7. Section 4059 of the Code states:

8 (a) A person may not furnish any dangerous drug, except upon the
9 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
10 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
11 dangerous device, except upon the prescription of a physician, dentist, podiatrist,
12 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

13

14 8. Section 4060 of the Code states:

15 No person shall possess any controlled substance, except that furnished to a
16 person upon the prescription of a physician, dentist, podiatrist, optometrist,
17 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
18 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
19 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
20 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
21 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
22 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
23 section shall not apply to the possession of any controlled substance by a
24 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
25 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
26 practitioner, or physician assistant, when in stock in containers correctly labeled
27 with the name and address of the supplier or producer.

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

9. Health and Safety Code section 11170 states that no person shall prescribe,
administer, or furnish a controlled substance for himself.

COST RECOVERY

1 drank from the bottle twice per day for 2-3 times per 1-2 weeks. Respondent admitted that she
2 consumed about 3-4 bottles of promethazine with codeine and that she did not have a prescription
3 for it. Respondent also admitted that she stole two Norco tablets and ten Xanax tablets from
4 CVS. Respondent signed a promissory note promising to pay CVS \$273.67 for the drugs that she
5 stole.

6 16. On or about January 29, 2013, officers from the Santa Ana Police Department
7 interviewed Respondent about the theft of drugs from CVS. Respondent again admitted to taking
8 and ingesting promethazine with codeine, 2 Norco pills and 10 Xanax pills. Respondent also
9 admitted that she assisted another pharmacy technician in taking drugs from CVS by placing
10 Xanax tablets on the rear counter so that the pharmacy technician could grab the pills.

11 17. On or about May 21, 2013, the People of the State of California issued a
12 misdemeanor complaint against Respondent in Orange County Superior Court Case Number
13 13CM04253, alleging a violation of Penal Code section 484(a)-488-508, theft by employee. On
14 or about June 14, 2013, Respondent pled guilty to violation of Penal Code section 484(a)-488-
15 508. However, the Court granted Respondent deferred entry of judgment and the case was
16 dismissed on September 16, 2013.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Dishonest Act)**

19 18. Respondent has subjected her license to disciplinary action under section 4301,
20 subdivision (f) of the Code in that Respondent committed an act involving dishonesty, fraud,
21 deceit, or corruption, when she stole controlled substances from her employer while working as a
22 pharmacy technician, as detailed in paragraphs 14 through 17, above, and which are incorporated
23 herein by reference.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Use of Controlled Substances in Dangerous Manner)**

26 19. Respondent has subjected her license to disciplinary action under section 4301,
27 subdivision (h) of the Code in that Respondent administered to herself controlled substances to
28 the extent or in a manner as to be dangerous or injurious to herself or the public, or to the extent

1 that it impaired her ability to practice safely, as evidenced by Respondent's admissions that while
2 working as a pharmacy technician, she consumed promethazine with codeine without a physician
3 prescription, directly from the CVS stock bottle twice per day for 2-3 times per 1-2 weeks, as
4 detailed in paragraphs 14 through 17, above, and which are incorporated herein by reference.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Unlawful Administration of a Controlled Substance)**

7 20. Respondent has subjected her license to disciplinary action under section 4301,
8 subdivision (j) of the Code for violation of Health and Safety Code section 11170 in that
9 Respondent illegally administered to herself controlled substances without a prescription, as
10 evidenced by Respondent's admissions that she consumed promethazine with codeine from the
11 CVS stock bottle twice per day for 2-3 times per 1-2 weeks, as detailed in paragraphs 14 through
12 17, above, and which are incorporated herein by reference.

13 **FOURTH CAUSE FOR DISCIPLINE**

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

15 21. Respondent has subjected her license to disciplinary action under section 4301,
16 subdivision (o) of the Code for violation of Code section 4060 in that Respondent illegally
17 possessed controlled substances without a prescription, as evidenced by Respondent's
18 admissions that she stole promethazine with codeine, Norco, and Xanax from CVS, as detailed in
19 paragraphs 14 through 17, above, and which are incorporated herein by reference.

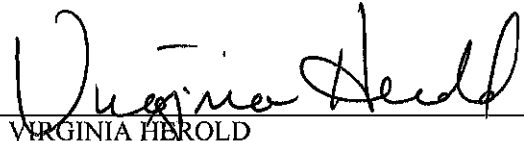
20 **PRAYER**

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

- 23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 111525,
24 issued to Melissa Yvone Carmona;
- 25 2. Ordering Melissa Yvone Carmona to pay the Board of Pharmacy the reasonable costs
26 of the investigation and enforcement of this case, pursuant to Business and Professions Code
27 section 125.3;
- 28 3. Taking such other and further action as deemed necessary and proper.

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DATED: 3/15/14



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

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