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8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 5164
12	AARON NUQUI
13	70 Oaklawn Drive, Apt. 18 Daly City, CA 94015 A C C U S A T I O N
14	Pharmacy Technician Registration
15	No. TCH 124310
16	Respondent.
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18	Complainant alleges:
19 20	PARTIES
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
21	the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22	2. On or about July 5, 2012, the Board of Pharmacy issued Pharmacy Technician
23	Registration Number TCH 124310 to Aaron Nuqui (Respondent). The Pharmacy Technician
24 25	Registration expired on February 28, 2014, and has not been renewed. JURISDICTION
25	3. This Accusation is brought before the Board of Pharmacy (Board), Department of
20	Consumer Affairs, under the authority of the following laws. All section references are to the
27	Business and Professions Code unless otherwise indicated.
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	(AARON NUQUI) ACCUSATION

1	4. Section 4300 of the Code states, in pertinent part:
2	"(a) Every license issued may be suspended or revoked.
3	"(b) The board shall discipline the holder of any license issued by the board, whose default
4	has been entered or whose case has been heard by the board and found guilty, by any of the
5	following methods:
6	"(1) Suspending judgment.
7	"(2) Placing him or her upon probation.
8	"(3) Suspending his or her right to practice for a period not exceeding one year.
9	"(4) Revoking his or her license.
10	"(5) Taking any other action in relation to disciplining him or her as the board in its
11	discretion may deem proper.
12	•••
13	"(e) The proceedings under this article shall be conducted in accordance with Chapter 5
14	(commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
15	shall have all the powers granted therein. The action shall be final, except that the propriety of the
16	action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
17	Procedure."
18	5. Section 4300.1 of the Code states:
19	"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
20	of law or by order or decision of the board or a court of law, the placement of a license on a
21	retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
22	jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding
23	against, the licensee or to render a decision suspending or revoking the license."
24	STATUTORY PROVISIONS
25	6. Section 4301 of the Code states, in pertinent part:
26	"The board shall take action against any holder of a license who is guilty of unprofessional
27	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
28	Unprofessional conduct shall include, but is not limited to, any of the following:
	(AARON NUQUI) ACCUSATION

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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.

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

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Section 4059 of the Code states, in pertinent part:

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

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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...."

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COST RECOVERY PROVISION

9. Section 125.3 of the Code states, 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.

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DRUG

10. The drug combination of promethazine and codeine is a Schedule V controlled
substance under Health and Safety Code section 11058, and a dangerous drug under Business and
Professions Code section 4022.

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FACTUAL BACKGROUND

26 11. From on or about August 6, 2012, to on or about July 5, 2013, Respondent stole or
27 pilfered numerous 16-ounce bottles of promethazine with codeine cough syrup while working as a

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1	pharmacy technician at three Walgreens pharmacies in San Francisco. He admitted to the
2	following thefts:
3	• at least 15 bottles from the Walgreens on Market Street at 4 th Street;
4	• at least 3 bottles from the Walgreens on Market Street at 9 th Street; and
5	• at least 3 bottles from the Walgreens on Market Street at Stockton Street.
6	12. Respondent sold the cough syrup to friends at \$100 for each bottle.
7	FIRST CAUSE FOR DISCIPLINE (Unprofessional Conduct: Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption) (Bus. & Prof. Code, § 4301, subd. (f))
9	13. Respondent has subjected his pharmacy technician registration to discipline because he
10	engaged in unprofessional conduct by committed an act of moral turpitude, dishonesty, fraud,
11	deceit, or corruption (Bus. & Prof. Code, § 4301, subd. (f)). The circumstances are described in
12	paragraphs 11 and 12, above.
13 14	SECOND CAUSE FOR DISCIPLINE (Violation of Statutes Regulating Controlled Substances or Dangerous Drugs) (Bus. & Prof. Code, §§ 4301, subd. (j); 4059, subd. (a); and 4060)
15	14. Respondent has subjected his pharmacy technician registration to discipline because he
16	violated state statutes regulating controlled substances or dangerous drugs (Bus. & Prof. Code,
17	§§ 4301, subd. (j)). He furnished dangerous drugs without a prescription (Bus. & Prof. Code, §
18	4059, subd. (a)), and he possessed controlled substances without a prescription (Bus. & Prof.
19	Code, § 4060). The circumstances are described in paragraphs 11 and 12, above.
20	PRAYER
21	WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
22	Accusation, and that following the hearing, the Board of Pharmacy issue a decision:
23	1. Revoking or suspending Pharmacy Technician Registration Number TCH 124310,
24	issued to Aaron Nuqui;
25	2. Ordering Aaron Nuqui to pay the Board of Pharmacy the reasonable costs of the
26	investigation and enforcement of this case, pursuant to Business and Professions Code section
27	125.3;
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	(AARON NUQUI) ACCUSATION

Taking such other and further action as deemed necessary and proper. 3. 8/ 31/15 DATED: VIRGINIA MEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant SF2014902245 90520333.doc (AARON NUQUI) ACCUSATION