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

12 In the Matter of the Accusation Against:

Case No. 5227

13 **CALVIN CLAUDE THACKER**
7005 Catamaran Dr.
14 Citrus Heights, CA 95621

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **107328**

17 Respondent.

18
19 Virginia Herold "(Complainant)" alleges:

20 **PARTIES**

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

23 2. On or about November 18, 2010, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 107328 to Calvin Claude Thacker ("Respondent"). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on February 29, 2016, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following laws.

3 All section references are to the Business and Professions Code ("Code") unless otherwise
4 indicated.

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

8 5. Code section 4300 states, in pertinent part, that every license issued may be suspended
9 or revoked.

10 6. Code section 4300.1 states:

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

16 **STATUTORY PROVISIONS**

17 **Business and Professions Code**

18 7. Code section 4301 of the Code states, in pertinent part:

19 The board shall take action against any holder of a license who is guilty of unprofessional
20 conduct. Unprofessional conduct shall include, but is not limited to, any of the following:

21 ...

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

25 ...

26 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
27 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
28 oneself, to a person holding a license under this chapter, or to any other person or to the public, or

1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.”

3 ...

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

6 ...

7 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
8 violation of or conspiring to violate any provision or term of this chapter or of the applicable
9 federal and state laws and regulations governing pharmacy, including regulations established by the
10 board or by any other state or federal regulatory agency.”

11 ...

12 8. Code section 4021 of the Code states:

13 “‘Controlled Substance’ means any substance listed in Chapter 2 (commencing with section
14 11053) of Division 10 of the Health and Safety Code.”

15 9. Code section 4022 states, in pertinent part:

16 “Dangerous drug” means any drug unsafe for self-use in humans or animals, and includes the
17 following:

18 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
19 a prescription,’ ‘Rx only.’ Or words of similar import.”

20 ...

21 “(c) Any drug that by federal or state law can be lawfully dispensed only on
22 prescription or furnished pursuant to section 4006.”

23 10. Code section 4059 provides, in pertinent part, that no person shall furnish any
24 dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or
25 veterinarian.

26 11. Code section 4060 states, in pertinent part, that no person shall possess any controlled
27 substance, except that furnished upon a valid prescription/drug order.

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1 **Health and Safety Code**

2 12. Health and Safety Code section 11170 states that “no person shall prescribe,
3 administer, or furnish a controlled substance for himself.”

4 13. Health and Safety Code section 11173 provides, in pertinent part, that no person shall
5 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
6 administration of controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or
7 (2) by the concealment of a material fact.

8 14. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
9 any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision
10 (b) or (c), or any controlled substance which is a narcotic drug in Schedules III-V, absent a valid
11 prescription.

12 **COST RECOVERY**

13 15. Code section 125.3 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.

17 **DRUGS**

18 16. “Norco” and “Vicodin” are among the brand names for compounds of varying dosages
19 of acetaminophen (aka APAP) and hydrocodone, a Schedule III controlled substance as designated
20 by Health and Safety Code section 11056, subdivision (e)(4) and dangerous drug as designated by
21 Business and Professions Code section 4022.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

24 17. Respondent is subject to discipline under Code section 4301, subdivision (f), for
25 unprofessional conduct, in that Respondent committed numerous acts involving moral turpitude,
26 dishonesty, fraud, deceit or corruption. The circumstances are as follows:

27 a. Between approximately December 2012 to June 25, 2013, Respondent stole
28 approximately 700 tablets of hydrocodone-containing schedule III controlled substance

1 medications, which were also narcotics, from Safeway Pharmacy in Fair Oaks, where Respondent
2 was employed a pharmacy technician. Per his own admissions, Respondent stole medications and
3 narcotics by removing a large bottle from the medication shelf or counter, walking down an aisle
4 he knew was not covered by the security camera, taking a large amount of hydrocodone pills, and
5 then returning the bottle to the shelf or counter. Respondent would then remove the pills from the
6 pharmacy and hide them in his car. The medications he stole and illegally possessed were
7 fraudulently and illegally used for self-medication, without a prescription for those medications.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unlawful Possession of Controlled Substance)**

10 18. Respondent is subject to discipline under Code sections 4301, subdivision (j), section
11 4060, and Health and Safety Code section 11350, in that on multiple and regular instances,
12 Respondent possessed controlled substances (hydrocodone products) without a prescription, as
13 more fully set forth above in paragraph 17 and its subpart.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unlawful Self-Administration of a Controlled Substance)**

16 19. Respondent is subject to discipline under Code section 4301, subdivision (h), and
17 Health and Safety Code section 11170, in that on multiple and regular instances, Respondent
18 administered to himself controlled substances (hydrocodone products) without a prescription, as
19 more fully set forth above in paragraph 17 and its subpart.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Furnishing of Dangerous Drugs)**

22 20. Respondent is subject to discipline under Code sections 4301, subdivision (j), section
23 4059, and Health and Safety Code section 11170, in that on multiple and regular instances,
24 Respondent furnished to himself controlled substances and dangerous drugs (hydrocodone
25 products) without a valid prescription, as more fully set forth above in paragraph 17 and its
26 subpart.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Violation of Statutes Governing Controlled Substances)**

3 21. Respondent is subject to discipline under Code section 4301, subdivision (j), in that
4 Respondent violated statutes regulating controlled substances and dangerous drugs, including
5 Code section 4059, as set forth above in paragraph 20, Code section 4060, as set forth above in
6 paragraph 18, and Health and Safety Code section 11350, as set forth above in paragraph 18, and
7 Health and Safety Code section 11170, as set forth above in paragraphs 19 and 20.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Violation of the Laws Governing Pharmacy)**

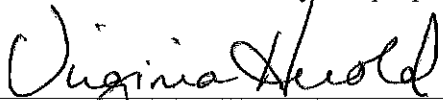
10 22. Respondent is subject to discipline under Code section 4301, subdivision (o), in that
11 Respondent violated the laws governing pharmacy, as more fully set forth above in paragraphs 17
12 through 21, and their subparts.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 107328,
17 issued to Calvin Claude Thacker;
- 18 2. Ordering Calvin Claude Thacker to pay the Board of Pharmacy the reasonable costs of
19 the investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 8/8/14

23 
24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

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