1	KAMALA D. HARRIS Attorney General of California		
2	FRANK H. PACOE		
3	Supervising Deputy Attorney General JUSTIN R. SURBER		
4	Deputy Attorney General State Bar No. 226937		
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004		
6	Telephone: (415) 355-5437 Facsimile: (415) 703-5480		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10			
11		Case No. 5274	
12	LEANNE N. LEVA 2821 Rosedale Ave.		
13		ACCUSATION	
14	Pharmacy Technician Registration No. TCH 34356		
15	Respondent.		
16			
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 August 21, 2000, the Board of Pharmacy issued Pharmacy Technician		
22	Registration Number TCH 34356 to Leanne N. Leva (Respondent). The Pharmacy Technician		
23	Registration expired on January 31, 2014, and has not been renewed.		
24	JURISDICTION		
25	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
26	Consumer Affairs, under the authority of the following laws. All section references are to the		
27	Business and Professions Code ("Code") unless otherwise indicated.		
28	111		
	1	Accusatio	
		Accusano	

4. Section 4300 of the Code states:

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

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

12

1

2

3

4

5

6

7

8

9

10

11

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5
(commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
shall have all the powers granted therein. The action shall be final, except that the propriety of the
action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
Procedure."

## STATUTORY PROVISIONS

18 19

5.

6.

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."

25

Section 4301 of the Code states:

"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:

2

1 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or 2 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and 3 whether the act is a felony or misdemeanor or not. 4 "(g) Knowingly making or signing any certificate or other document that falsely represents 5 the existence or nonexistence of a state of facts. 6 7 "(i) The violation of any of the statutes of this state, or any other state, or of the United 8 9 States regulating controlled substances and dangerous drugs. 10 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the 11 violation of or conspiring to violate any provision or term of this chapter or of the applicable 12 federal and state laws and regulations governing pharmacy, including regulations established by 13 the board or by any other state or federal regulatory agency. 14 57 15 7. Section 4324 of the Code states: 16 "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, 17 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any 18 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the 19 state prison, or by imprisonment in the county jail for not more than one year. 20"(b) Every person who has in his or her possession any drugs secured by a forged 21 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the 22 county jail for not more than one year." 23 8. Section 4022 of the Code states 24 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in 25 humans or animals, and includes the following: 26 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without 27 prescription," "Rx only," or words of similar import. 28 3

Accusation

"(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

"(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."

6

9.

1

2

3

4

5

Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon 7 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor 8 9 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a 10 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, 11 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of 12 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not 13 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, 14 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified 15 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly 16 labeled with the name and address of the supplier or producer. 17

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

10. 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.

25

11. Health and Safety Code section 11173 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.

4

ĺ		
1	, , , , , , , , , , , , , , , , , , ,	
2	DRUGS INVOLVED	
3	12. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for	
4	compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone. Hydrocodone is	
5	a Schedule II controlled substance pursuant to Health and Safety Code section 11055. It is a	
6	dangerous drug pursuant to section 4022 of the Code.	
7	13. Klonopin is a brand name for clonazepam, a Schedule IV controlled substance	
8	pursuant to Health and Safety Code section 11057. It is a dangerous drug pursuant to section	
9	4022 of the Code.	
10	14. Ativan is a brand name for lorazepam, a Schedule IV controlled substance pursuant to	
11	Health and Safety Code section 11057. It is a dangerous drug pursuant to section 4022 of the	
12	Code.	
13	FIRST CAUSE FOR DISCIPLINE	
14	(Dishonesty, Fraud, Deceit)	
15	15. Respondent is subject to disciplinary action under section 4301, subsection (f), of the	
16	code in that Respondent committed acts involving dishonesty, fraud, or deceit. The circumstances	
17	are as follows:	
18	16. Between February 2008 and October 2011, Respondent worked as a pharmacy	
19	technician at Costco Pharmacy #470 in San Jose, CA.	
20	17. On numerous occasions from about March 2008 until September 2011, Respondent	
21	made false, fictitious, and/or forged prescriptions for several controlled substances and dangerous	
22	drugs including: Vicodin, clonazepam, and lorazepam. Respondent is not authorized to prescribe	
23	controlled substances.	
24	18. From about March 2008 until September 2011, Respondent in her capacity as a	
25	pharmacy technician, entered fictitious patient names and forged/false prescription information	
26	into the Costco Pharmacy computer system.	
27	19. Respondent picked up and purchased Vicodin, clonazepam, and lorazepam pursuant	
28	to the false and/or forged prescriptions that she created.	
	5	
	Accusation	

1	20. On numerous occasions from about March 2008 until September 2011, Respondent		
2	possessed Vicodin, clonazepam, and lorazepam without a valid prescription.		
3	21. On numerous occasions from about March 2008 until September 2011, Respondent		
4	obtained hydrocodone/acetaminophen, clonazepam, and lorazepam through deceit and fraud.		
5	SECOND CAUSE FOR DISCIPLINE		
6	(Violation of Drug Laws)		
7	22. Respondent is subject to disciplinary action under section 4301, subsection(s) (j)		
8	and/or (o), of the Code in that Respondent violated Code section 4060 by possessing controlled		
9	substances without a valid prescription. The circumstances are described in paragraphs 16-21,		
10 <sup>-</sup>	above.		
11	THIRD CAUSE FOR DISCIPLINE		
12	(Violation of Drug Laws)		
13	23. Respondent is subject to disciplinary action under section 4301, subsection (j), of the		
14	Code in that Respondent violated Health and Safety Code section 11173 by obtaining controlled		
15	substances by fraud, deceit, or misrepresentation. The circumstances are described in paragraphs		
16	16-21, above.		
17	FOURTH CAUSE FOR DISCIPLINE		
18	(Violation of Drug Laws)		
19	24. Respondent is subject to disciplinary action under section 4301, subsection (j) and/or		
20	(o), of the Code in that Respondent violated Code section 4324 by falsely making, altering,		
21	forging, and/or passing prescriptions for drugs. The circumstances are described in paragraphs		
22	16-21, above.		
23	FIFTH CAUSE FOR DISCIPLINE		
24	(False Statement of Facts)		
25	25. Respondent is subject to disciplinary action under section 4301, subsection (g), of the		
26	code in that Respondent knowingly made records and/or documents that falsely represents the		
27	existence or nonexistence of a state of facts. The circumstances are described in paragraphs 16-		
28	21, above.		
	6		
	Accusation		

1	SIXTH CAUSE FOR DISCIPLINE		
2	(Unprofessional Conduct)		
3	26. Respondent is subject to disciplinary action under section 4301 of the code in that		
4	Respondent engaged in unprofessional conduct. The circumstances are described in paragraphs		
5	16-21, above.		
6	PRAYER		
7	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
8	and that following the hearing, the Board of Pharmacy issue a decision:		
9	1. Revoking or suspending Pharmacy Technician Registration Number TCH 34356,		
10	issued to Leanne N. Leva;		
11	2. Ordering Leanne N. Leva to pay the Board of Pharmacy the reasonable costs of the		
12	investigation and enforcement of this case, pursuant to Business and Professions Code section		
13	125.3;		
14	3. Taking such other and further action as deemed necessary and proper.		
15			
16			
17	DATED: 4/14/16 Originie Level		
18	VIRGINIA HEROLD Executive Officer		
19	Board of Pharmacy Department of Consumer Affairs		
20	State of California Complainant		
21	Comptantant		
22	SF2014409381 41123223.doc		
23			
24			
25			
26			
27			
28			
	7 Accusation		

.

Accusation