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

11 In the Matter of the Accusation Against:  
12  
13 **TENAYA ALISHA WELTS**  
**38475 Rancho Los Cerritos**  
**Indio, CA 92203**  
14  
15 **Pharmacy Technician Registration No. TCH**  
**130095**  
16 Respondent.

Case No. 5528

**ACCUSATION**

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 22 2. On or about February 4, 2013, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 130095 to Tenaya Alisha Welts (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on May 31, 2016, unless renewed.

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  
8 7. Section 4059 of the Code states:

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

14 . . . .  
15  
16 8. Section 4060 of the Code states:

17 No person shall possess any controlled substance, except that furnished to a  
18 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
19 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
20 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
21 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
22 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a  
23 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
24 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
25 section shall not apply to the possession of any controlled substance by a  
26 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
27 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
28 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, 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

10. Section 125.3 of the Code provides, 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.

1 **DRUGS**

2 11. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code  
3 section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code  
4 section 4022.

5 12. Promethazine with Codeine is a Schedule V controlled substance pursuant to Health  
6 and Safety Code section 111058(c)(1) and is a dangerous drug pursuant to Business and  
7 Professions Code section 4022.

8 13. Z-Pak is an antibiotic and is a dangerous drug pursuant to Business and Professions  
9 Code section 4022.

10 **FACTUAL ALLEGATIONS**

11 14. Respondent was employed as a pharmacy technician at CVS Pharmacy Store  
12 Numbers 9779, 9153 and 9646.

13 15. On May 4, 2015, CVS Pharmacy received a complaint alleging that Respondent  
14 generated fraudulent promethazine with codeine prescriptions. CVS Pharmacy investigated the  
15 incident and learned that Respondent filled multiple prescriptions for promethazine with codeine  
16 allegedly written by Dr. K.P. During an interview with Respondent by CVS Pharmacy,  
17 Respondent admitted that she obtained prescriptions for narcotics without seeing or speaking to  
18 the alleged prescriber, Dr. K.P., who was her former employer. She stated that she received  
19 authorization for the prescriptions from "Connie" at Dr. K.P.'s office. When asked what she did  
20 with the drugs that she obtained, Respondent admitted to consuming them, including the  
21 controlled substances, Xanax and promethazine with codeine. She also admitted to sharing drugs,  
22 specifically Xanax, with other pharmacy staff, even though she knew that those staff members did  
23 not have prescriptions for those drugs. In addition, she admitted to obtaining a prescription for  
24 narcotics for another individual, Pharmacist J.A.

25 16. Pharmacist J.A. was also interviewed concerning Respondent's actions and he  
26 admitted that Respondent obtained a prescription for promethazine with codeine for him, without  
27 seeing or speaking to the physician, Dr. K.P.

28

17. Thereafter, the Board of Pharmacy conducted an investigation and determined that Respondent obtained multiple fraudulent prescriptions for promethazine with codeine allegedly written by Dr. K.P., as well as, two prescriptions for alprazolam and one prescription for an antibiotic as follows:

Date Prescribed	Date Dispensed	Drug	Doctor	Rx #	Store	Authorized by	Processed by	Filled by
7/2/14	7/10/14	Alprazolam 2mg #90 Plus 1 refill	K.P.	354442	CVS #9153	Connie/ Telephone Rx	JA	JA
1/1/15	1/1/15	Alprazolam 2mg #90	K.P.	899112	CVS #9779	Refill Transferred from CVS#9153		
1/20/15	1/20/15	Prometh/Codeine 240ml Plus 1 refill	K.P.	903089	CVS #9779	Connie/ Voice Mail		CR
1/20/15	1/20/15	"Z-Pak" azithromycin Plus 1 refill	K.P.	903090	CVS #9779	Connie/ Voice Mail		CR
	1/25/15	Prometh/Codeine 240ml	K.P.	903089 (refill)	CVS #9779			
1/29/15	1/29/15	Prometh/Codeine 240ml Plus 1 refill	K.P.	905031	CVS #9779	Nancy/ Telephone Rx		WK
	2/7/15	Prometh/Codeine 240ml	K.P.	905031 (refill)	CVS #9779			
2/13/15	2/13/15	Prometh/Codeine 240ml Plus 1 refill	K.P.	908153	CVS #9779	Connie/ Voice Mail		CR
	2/19/15	Prometh/Codeine 240ml	K.P.	908153 (refill)	CVS #9779			
2/23/15	2/23/15	Prometh/Codeine 240ml Plus 1 refill	K.P.	910014	CVS #9779	Connie/ Telephone Rx		AL
2/23/15	2/27/15	Prometh/Codeine 240ml Plus 1 refill	K.P.	911013	CVS #9779			CR
2/23/15	3/4/15	Prometh/Codeine 240ml Plus 1 refill	K.P.	911995	CVS #9779			SD
	3/8/15	Prometh/Codeine 240ml	K.P.	1027548	CVS #9646	Refill Transferred From CVS#9779		
2/23/15	3/11/15	Prometh/Codeine 240ml Plus 1 refill	K.P.	913388	CVS #9779			BD

<sup>1</sup> All "New" promethazine/codeine prescriptions dated 2/23/15 and after were actually the same fake Rx rescanned numerous times

1	3/17/15	Prometh/Codeine 240ml	K.P.	913388 (refill)	CVS #9779		
2							

18. Respondent did not have a good faith exam by the prescriber, Dr. K.P., for any of the above prescriptions. Respondent never saw or spoke to Dr. K.P. about the prescriptions. Neither Dr. K.P., nor any of his staff, prescribed, authorized, or phoned-in the prescriptions for Respondent. All of the prescriptions were fraudulent.

**FIRST CAUSE FOR DISCIPLINE**

**(Dishonest Act)**

19. Respondent has subjected her license to disciplinary action under section 4301, subdivision (f) of the Code in that Respondent committed acts involving dishonesty, fraud, deceit, or corruption, in that Respondent fraudulently obtained prescriptions, as detailed in paragraphs 14 through 18 which are incorporated herein by reference.

**SECOND CAUSE FOR DISCIPLINE**

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

20. Respondent has subjected her license to disciplinary action under section 4301, subdivision (h) of the Code in that Respondent administered to herself controlled substances to the extent or in a manner as to be dangerous or injurious to herself or the public, as detailed in paragraphs 14 through 18, above, and which are incorporated herein by reference.

**THIRD CAUSE FOR DISCIPLINE**

**(Violating Statutes Regulating Controlled Substances)**

21. Respondent has subjected her license to disciplinary action under section 4301, subdivision (j) of the Code for violation of Health and Safety Code sections 11170 in that Respondent illegally obtained and administered to herself, controlled substances, as detailed in paragraphs 14 through 18, above, and which are incorporated herein by reference.

**FOURTH CAUSE FOR DISCIPLINE**

**(Violating Laws Governing Pharmacy)**

22. Respondent has subjected her license to disciplinary action under section 4301, subdivision (o) of the Code for violation of Code sections 4059 and 4060 in that Respondent

1 illegally furnished controlled substances to others and illegally possessed controlled substances  
2 without a legitimate prescription, as detailed in paragraphs 14 through 18, above, and which are  
3 incorporated herein by reference.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 130095,  
8 issued to Tenaya Alisha Welts;
- 9 2. Ordering Tenaya Alisha Welts to pay the Board of Pharmacy the reasonable costs of  
10 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
11 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.
- 13  
14  
15

16 DATED: August 12, 2015

*Virginia Herold* FOR

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

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