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

11 In the Matter of the Accusation Against:

Case No. 5660

12 **JAGVIR KAUR**  
13 **28809 Foxfire Lane**  
14 **Hayward, CA 94544**

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **83870**

16 Respondent.

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 June 9, 2008, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 83870 to Jagvir Kaur (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on May 31, 2016, unless renewed.

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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 (Code) unless otherwise indicated.

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

8 5. Section 4300.1 of the Code states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 4060 of the Code states:

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

27 ..."

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1           7.     Section 4301 of the Code provides, in relevant part:

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

5           ...

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

9           ...

10          “(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
11 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
12 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
13 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
14 practice authorized by the license.

15          ...

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

18          ...

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

23          ...”

24          8.     Health and Safety Code section 11173, subdivision (a), provides that no person shall  
25 obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
26 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,  
27 or subterfuge; or (2) by the concealment of a material fact.

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

4 10. Hydromorphone is a Schedule II controlled substance as designated by Health and  
5 Safety Code section 11055, subdivision (b)(1)(J) and a dangerous drug as designated by Business  
6 and Professions Code section 4022.

7 11. Opium is a Schedule II controlled substance as designated by Health and Safety Code  
8 section 11055, subdivision (b)(1) and a dangerous drug as designated by Business and Professions  
9 Code section 4022.

#### 10 COSTS

11 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
16 included in a stipulated settlement.

#### 17 FACTUAL BACKGROUND

18 13. On or about March 3, 2015, Respondent was employed as a pharmacy technician at a  
19 pharmacy in Hayward, California. On that date, Respondent diverted 490 milliliters of  
20 hydromorphone solution 1mg/ml and 111 milliliters of opium tincture 10mg/ml from the  
21 pharmacy. Respondent then self-administered the drugs in the pharmacy's lunch room, left the  
22 pharmacy, and drove to a park.

#### 23 FIRST CAUSE FOR DISCIPLINE

#### 24 (Commission of an Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, and/or 25 Corruption)

26 14. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and  
27 (o) of the Code in that Respondent committed an act involving moral turpitude, dishonesty, fraud,  
28 deceit, and/or corruption when she diverted hydromorphone and opium tincture from the

1 pharmacy where she was employed. The circumstances of Respondent's conduct are set forth  
2 above in paragraph 13.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dangerous Use of Controlled Substances and Dangerous Drugs)**

5 15. Respondent is subject to disciplinary action under section 4301, subdivisions (h) and  
6 (o) of the Code in that Respondent used controlled substances and dangerous drugs in a dangerous  
7 manner. The circumstances of Respondent's conduct are set forth above in paragraph 13.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Illegal Possession of Controlled Substances)**

10 16. Respondent is subject to disciplinary action under section 4301, subdivisions (j)  
11 and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that  
12 Respondent possessed controlled substances without a prescription. The circumstances of  
13 Respondent's conduct are set forth above in paragraph 13.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Obtaining Controlled Substance by Fraud, Deceit, or Subterfuge)**

16 17. Respondent is subject to disciplinary action under section 4301, subdivisions (j)  
17 and/or (o) of the Code, and/or Health and Safety Code section 11173, subdivision (a), in that  
18 Respondent obtained controlled substances and/or procured the administration of controlled  
19 substances by fraud, deceit, subterfuge, and/or the concealment of a material fact. The  
20 circumstances of Respondent's conduct are set forth above in paragraph 13.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 18. Respondent is subject to disciplinary action under section 4301 of the Code in that  
24 Respondent engaged in unprofessional conduct. The circumstances of Respondent's conduct are  
25 set forth above in paragraph 13.

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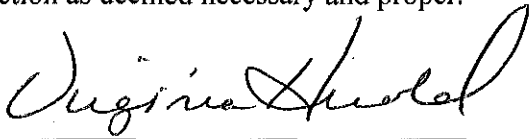
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**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 83870 issued to Jagvir Kaur;
2. Ordering Jagvir Kaur to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/15/16 

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

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