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	BEFORE THE
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
9	STATE OF CALIFORNIA
10	In the Matter of the Accusation Against: Case No. 5782
. 11	JACQUELINE CASSIDY NOVOBILSKI
. 12	130 E. Avenida de Los Arboles Thousand Oaks, CA 91360 ACCUSATION
. 13	Pharmacy Technician License No. TCH
. 14	136841
15	Respondent.
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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 December 31, 2013, the Board of Pharmacy issued Pharmacy
23	Technician License Number TCH 136841 to Jacqueline Cassidy Novobilski (Respondent). The
24	Pharmacy Technician License was in full force and effect at all times relevant to the charges
25	brought herein and will expire on July 31, 2017, unless renewed.
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	(JACQUELINE CASSIDY NOVOBILSKI) ACCUSATION

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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
1 1	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,
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	(JACQUELINE CASSIDY NOVOBILSKI) ACCUSATION

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Section 4301 of the Code provides, in relevant part:

"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:

"(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, or any other state, or of the United
States regulating controlled substances and dangerous drugs.

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

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Health and Safety Code section 11173, subdivision (a), provides that 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.

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

25 10. Alprazolam is a Schedule IV controlled substance as designated by Health and Safety
26 Code section 11057, subdivision (d)(1) and a dangerous drug as designated by Business and
27 Professions Code section 4022.

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Section 125.3 of the Code provides, in pertinent part, that the Board may request the 11. 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL BACKGROUND

12. On or about December 18, 2015, while employed as a pharmacy technician at at 9 Longs Drug Store California, LLC, dba CVS Pharmacy #3934, located at 60 N. Moorpark Road, 10 Thousand Oaks, CA 91360 (CVS), Respondent fraudulently activated gift cards that she used to 11 buy merchandise from CVS for her own personal use in the total amount of \$50. 12

Prior to this date, while working in the pharmacy at CVS, Respondent opened a bottle 13. of Alprazolam 2mg and unlawfully took one pill without a lawful prescription, which she concealed in her shirt pocket and exited the pharmacy without paying. Respondent also conducted additional fraudulent "refunds" for the purpose of stealing cash from CVS in the total amount of an additional \$350.

FIRST CAUSE FOR DISCIPLINE

(Commission of an Act Involving Moral Turpitude, Dishonesty, Fraud,

Deceit, and/or Corruption)

Respondent is subject to disciplinary action under section 4301, subdivisions (f) and 14. (o) of the Code in that she committed an act involving moral turpitude, dishonesty, fraud, deceit, 22and/or corruption when she diverted Alprazolam from the pharmacy where she was employed.

The circumstances of Respondent's conduct are set forth above in paragraph 13 and incorporated 24 herein by this reference. 25

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1	SECOND CAUSE FOR DISCIPLINE
2	(Illegal Possession of Controlled Substances)
3	15. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
4	and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that
5	Respondent possessed controlled substances without a prescription. The circumstances of
6	Respondent's conduct are set forth above in paragraph 13 and incorporated herein by this
7	reference.
8	THIRD CAUSE FOR DISCIPLINE
9	(Obtaining Controlled Substance by Fraud, Deceit, or Subterfuge)
10	16. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
11	and/or (o) of the Code, and/or Health and Safety Code section 11173, subdivision (a), in that
12	Respondent obtained controlled substances and/or procured the administration of controlled
13	substances by fraud, deceit, subterfuge, and/or the concealment of a material fact. The
14	circumstances of Respondent's conduct are set forth above in paragraph 13 and incorporated
15	herein by this reference.
16	FOURTH CAUSE FOR DISCIPLINE
17	(Unprofessional Conduct)
18	17. Respondent is subject to disciplinary action under section 4301 of the Code in that
19	Respondent engaged in unprofessional conduct. The circumstances of Respondent's conduct are
20	set forth above in paragraphs 12 and 13 and incorporated herein by this reference.
21	PRAYER
22	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
23	and that following the hearing, the Board of Pharmacy issue a decision:
24	1. Revoking or suspending Pharmacy Technician License Number TCH 136841, issued
25	to Jacqueline Cassidy Novobilski
26	2. Ordering Jacqueline Cassidy Novobilski to pay the Board of Pharmacy the reasonable
27	costs of the investigation and enforcement of this case, pursuant to Business and Professions
28	Code section 125.3;
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	(JACQUELINE CASSIDY NOVOBILSKI) ACCUSATION

(JACQUELINE CASSIDY NOVOBILSKI) ACCUSATION

Taking such other and further action as deemed necessary and proper. 3. 8/15/16 DATED: VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant LA2016600800 52172332.doc (JACQUELINE CASSIDY NOVOBILSKI) ACCUSATION