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

10 In the Matter of the Accusation Against:

Case No. 5811

11 **JESSICA DENISE MANZO**
12 **615 17th Street**
13 **Richmond, CA 94801**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **131575**

Respondent.

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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 June 20, 2013, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 131575 to Jessica Denise Manzo (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on May 31, 2017, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

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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.

...

"(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."

5. 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."

STATUTORY PROVISIONS

6. 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:

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"(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.

..."

7. Section 4059 of the Code states:

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

..."

8. Section 4060 of the Code states:

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

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

4 9. Health and Safety Code section 11350 provides, in pertinent part, that: "...every
5 person who possesses... any controlled substance classified in Schedule III, IV, or V which is a
6 narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
7 veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail
8 for not more than one year..."

9 COSTS

10 10. Section 125.3 of the Code states, 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
12 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 DRUGS INVOLVED

15 11. Norco is the brand name for a compound containing acetaminophen (aka APAP) and
16 hydrocodone, a Schedule III controlled substance as designated by Health and Safety Code
17 section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section
18 4022. The compound is also known generically as Hydrocodone with APAP. Norco is a narcotic
19 drug. Products that combine hydrocodone with non-controlled substances are also called
20 hydrocodone combination products. Effective October 6, 2014, hydrocodone combination
21 productions were rescheduled at the federal level from Schedule III (21 C.F.R. §
22 1308.13(e)(1)(iii) and (iv)) to Schedule II (21 C.F.R. § 1308.12(b)(1)). This includes
23 Hydrocodone with APAP drugs. At all time relevant to this accusation
24 Hydrocodone/Acetaminophen was a schedule III controlled substance.

25 FIRST CAUSE FOR DISCIPLINE

26 (Diversion of Controlled Substances)

27 12. Respondent is subject to disciplinary action under section 4301, subsection (f), of the
28 code in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or

1 corruption. From about September 2013, until December 2013, Respondent stole approximately
2 89 bottles of 100 count Norco from her employer CVS.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Possession/Furnishing of Controlled Substances)

5 13. Respondent is subject to disciplinary action under section 4301, subsection (j), of the
6 code in that Respondent violated the laws of California concerning controlled substances. From
7 about September 2013, until December 2013, Respondent stole approximately 89 bottles of 100
8 count Norco from her employer CVS. Respondent possessed Norco in violation of Business and
9 Professions Code section 4060 and Health and Safety Code section 11350. Respondent gave the
10 Norco to another in violation of Business and Professions Code section 4059, subsection (a).

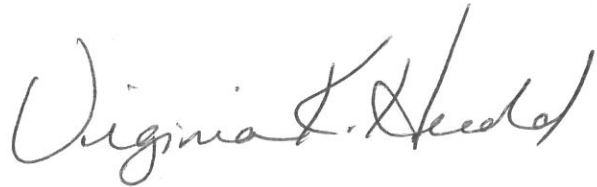
11 **PRAAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 131575,
15 issued to Jessica Denise Manzo;
- 16 2. Ordering Jessica Denise Manzo to pay the Board of Pharmacy the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

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23 DATED: _____

6/13/16



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

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