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

11 In the Matter of the Accusation Against:
12
13 **SHANNON NICHOLE RUIZ**
215 E. Emerson Street
Chula Vista, CA 91911
14
15 **Pharmacy Technician Registration No.**
TCH 94884
16
17 Respondent.

Case No. 6116

A C C U S A T I O N

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 March 22, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 94884 to Shannon Nichole Ruiz (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 August 31, 2017, 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 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
proceed with any investigation of, or action or disciplinary proceeding against, the
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 issued by mistake.
16 Unprofessional conduct shall include, but is not limited to, any of the following:

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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
licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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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
ability of the person to conduct with safety to the public the practice authorized by
the license.

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

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12 7. Section 4059 of the Code states:

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

18

19 8. Section 4060 of the Code states:

20 No person shall possess any controlled substance, except that furnished to a
21 person upon the prescription of a physician, dentist, podiatrist, optometrist,
22 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
23 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
24 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
25 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
26 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
27 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
28 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.

 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. Section 4327 of the Code states:

 Any person who, while on duty, sells, dispenses or compounds any drug while
under the influence of any dangerous drug or alcoholic beverage shall be guilty of a
misdemeanor.

1 10. Health and Safety Code section 11170 states that no person shall prescribe,
2 administer, or furnish a controlled substance for himself.

3 **COST RECOVERY**

4 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 **DRUGS**

9 12. Norco is the brand name for hydrocodone/acetaminophen, a Schedule II controlled
10 substance pursuant to Health and Safety Code section 11055(b)(1)(l) and a dangerous drug
11 pursuant to Business and Professions Code section 4022.

12 13. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
13 section 11054(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section
14 4022.

15 **FACTUAL ALLEGATIONS**

16 14. At all times relevant herein, Respondent was employed as a pharmacy technician at
17 Community, a Walgreens Pharmacy in San Diego, California.

18 15. In 2015-2016, Respondent diverted and stole approximately three bottles (300
19 tablets) of oxycodone IR 15mg, and one bottle (500 tablets) of Norco. Respondent did this by
20 taking a handful at times she accessed the narcotic cabinet. Her employer submitted a DEA 106
21 form, reporting losses of Norco and oxycodone during the time period when Respondent was a
22 pharmacy technician at Community.

23 16. In approximately 2015-2016, Respondent self-administered eight tablets a day of
24 Norco or oxycodone without a prescription. She practiced as a pharmacy technician while under
25 the influence of oxycodone or Norco.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Dishonest Acts)**

3 17. Respondent has subjected her registration to disciplinary action under section 4301,
4 subdivision (f) of the Code in that Respondent committed acts involving dishonesty, fraud, deceit,
5 or corruption, in that Respondent stole controlled substances from her employer, as detailed in
6 paragraphs 14 through 16, above, which are incorporated herein by reference.

7 **SECOND CAUSE FOR DISCIPLINE**

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

9 18. Respondent has subjected her registration to disciplinary action under section 4301,
10 subdivision (h) of the Code in that Respondent administered to herself controlled substances to
11 the extent or in a manner as to be dangerous or injurious to herself or the public, as detailed in
12 paragraphs 14 through 16, above, and which are incorporated herein by reference.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Violating Statutes Regulating Controlled Substances)**

15 19. Respondent has subjected her registration to disciplinary action under section 4301,
16 subdivision (j) of the Code for violation of Health and Safety Code sections 11170, in that
17 Respondent illegally obtained and administered to herself, controlled substances and Health and
18 Safety Code section 111350, in that Respondent possessed controlled substances without
19 prescriptions, as detailed in paragraphs 14 through 16, above, and which are incorporated herein
20 by reference.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Violating Laws Governing Pharmacy)**

23 20. Respondent has subjected her registration to disciplinary action under section 4301,
24 subdivision (o) of the Code for violation of Code sections 4059 and 4060, in that Respondent
25 illegally furnished controlled substances to herself and illegally possessed controlled substances
26 without legitimate prescriptions and Code section 4327, in that Respondent sold and dispensed
27 drugs while under the influence of controlled substances, as detailed in paragraphs 14 through 16,
28 above, and which are incorporated herein by reference.

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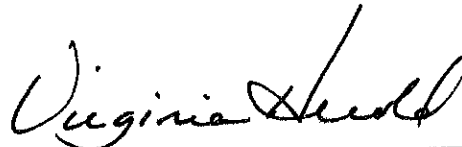
PRAYER

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 94884, issued to Shannon Nichole Ruiz;
2. Ordering Shannon Nichole Ruiz 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

7/11/17



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

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