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

10 In the Matter of the Accusation Against:

Case No. 3398

11 **JENNIFER D. GILL**  
12 **578 Grape Street, Apt. B**  
13 **El Cajon, CA 92019**

**DEFAULT DECISION AND ORDER**

14 **Pharmacy Technician Registration No. TCH**  
15 **36591**

[Gov. Code, §11520]

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about October 30, 2009, Complainant Virginia Herold, in her official capacity  
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
20 Accusation No. 3398 against Jennifer D. Gill (Respondent) before the Board of Pharmacy.

21 2. On or about February 21, 2001, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician Registration No. TCH 36591 to Respondent. The Pharmacy Technician Registration  
23 was in full force and effect at all times relevant to the charges brought herein and will expire on  
24 January 31, 2011, unless renewed.

25 3. On or about November 3, 2009, Denise Hosman, an employee of the Department of  
26 Justice, served by Certified and First Class Mail a copy of the Accusation No. 3398, Statement to  
27 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,  
28 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is: 578

1 Grape Street, Apt. B, El Cajon, CA 92019. A copy of the Accusation is attached as Exhibit A,  
2 and is incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the provisions of  
4 Government Code section 11505, subdivision (c).

5 5. Government Code section 11506 states, in pertinent part:

6 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
7 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
8 of the accusation not expressly admitted. Failure to file a notice of defense shall  
constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

9 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
10 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 3398.

11 7. California Government Code section 11520 states, in pertinent part:

12 (a) If the respondent either fails to file a notice of defense or to appear at the  
13 hearing, the agency may take action based upon the respondent's express admissions  
14 or upon other evidence and affidavits may be used as evidence without any notice to  
respondent.

15 8. Pursuant to its authority under Government Code section 11520, the Board finds  
16 Respondent is in default. The Board will take action without further hearing and, based on the  
17 evidence on file herein, finds that the allegations in Accusation No. 3398 are true.

18 9. The total cost for investigation and enforcement in connection with the Accusation  
19 are \$5,858.00 as of December 8, 2009.

#### 20 DETERMINATION OF ISSUES

21 1. Based on the foregoing findings of fact, Respondent Jennifer D. Gill has subjected  
22 her Pharmacy Technician Registration No. TCH 36591 to discipline.

23 2. A copy of the Accusation is attached.

24 3. The agency has jurisdiction to adjudicate this case by default.

25 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician  
26 Registration based upon the following violations alleged in the Accusation:

27 a. Respondent's license is subject to discipline for unprofessional conduct under Business  
28 and Professions Code (Code) sections 4301(j) and (o), for violating Code section 4059(a) and

1 Health & Safety Code section 11158(a) in that Respondent furnished a controlled substance to  
2 herself without a prescription while employed as a pharmacy technician at Kaiser Permanente  
3 Pharmacy #220. Respondent furnished to herself at least 520 tablets of Hydrocodone/APAP 10-  
4 325 by creating unauthorized prescriptions and unauthorized prescription refills.

5 b. Respondent's license is subject to discipline for unprofessional conduct under Business  
6 and Professions Code (Code) sections 4301(j) and (o), for violating Code section 4059(a) and  
7 Health & Safety Code section 11158(a) in that Respondent furnished controlled substances to  
8 herself without a prescription in that, while employed as a pharmacy technician at Kaiser  
9 Permanente Pharmacy #220, Respondent furnished to herself at least 520 tablets of  
10 Hydrocodone/APAP 10-325, using unauthorized prescriptions and unauthorized prescription  
11 refills.

12 c. Respondent's license is subject to discipline for unprofessional conduct under Code  
13 sections 4301(f) and (j), in conjunction with Health & Safety Code section 11173(a), in that  
14 Respondent obtained controlled substances by dishonesty, fraud, deceit and subterfuge by  
15 changing, altering and creating prescriptions for herself for at least 520 tablets of  
16 Hydrocodone/APAP 10-325 by adding refills and increasing the quantity of pills on her  
17 prescriptions.

18 d. Respondent's license is subject to discipline for unprofessional conduct under Code  
19 sections 4301(g) and (j), 4324(a), in conjunction with Health & Safety Code section 11173(a) in  
20 that Respondent obtained at least 520 tablets of Hydrocodone/APAP 10-325, a controlled  
21 substance, by creating false records and false prescription documentation, including unauthorized  
22 refills, unauthorized prescriptions, changing prescriber names, changing directions for use,  
23 deleting prescription dispensing, and increasing dispensing amounts, without prescriber  
24 authorization, while employed as a pharmacy technician at Kaiser Permanente Pharmacy #220.

25 e. Respondent's license is subject to discipline for unprofessional conduct under Code  
26 sections 4301(j) and (o) in conjunction with Code section 4060 and Health & Safety Code section  
27 11350(a), in that Respondent possessed controlled substances without a prescription or prescriber  
28

1 authorization in that while she was employed as a pharmacy technician at Kaiser Permanente  
2 Pharmacy #220, she furnished to herself at least 520 tablets of Hydrocodone/APAP 10-325.

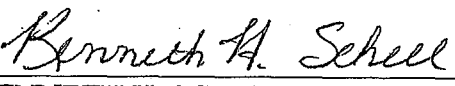
3 ORDER

4 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 36591, heretofore  
5 issued to Respondent Jennifer D. Gill, is revoked.

6 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
7 written motion requesting that the Decision be vacated and stating the grounds relied on within  
8 seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
9 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

10 This Decision shall become effective on April 8, 2010.

11 It is so ORDERED March 9, 2010.

12   
13 \_\_\_\_\_  
14 KENNETH H. SCHELL, BOARD PRESIDENT  
15 FOR THE BOARD OF PHARMACY  
16 DEPARTMENT OF CONSUMER AFFAIRS

16 80412864.DOC  
17 DOJ docket number:SD2009804359

17 Attachment:

18 Exhibit A: Accusation No.3398  
19  
20  
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Exhibit A  
Accusation No. 3398

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*Attorneys for Complainant*

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

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Case No. 3398

12 **JENNIFER D. GILL**

13 **578 Grape Street, Apt. B**  
14 **El Cajon, CA 92019**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration No. TCH**  
16 **36591**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
23 2. On or about February 21, 2001, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 36591 to Jennifer D. Gill (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on January 31, 2011, unless renewed.

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28 ///

## JURISDICTION

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

4. Section 4300(a) of the Code states:

Every license issued may be suspended or revoked.

5. Section 118, subdivision (b), of the Code provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

## STATUTORY PROVISIONS

6. 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.

7. 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.

8. 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:

1                   ....  
2                   (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
3                   deceit, or corruption, whether the act is committed in the course of relations as a  
4                   licensee or otherwise, and whether the act is a felony or misdemeanor or not.

5                   (g) Knowingly making or signing any certificate or other document that  
6                   falsely represents the existence or nonexistence of a state of facts.  
7                   ....

8                   (j) The violation of any of the statutes of this state, of any other state, or of  
9                   the United State regulating controlled substances and dangerous drugs.  
10                  ....

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

15                  9.     Section 4324 of the Code states:

16                   (a) Every person who signs the name of another, or of a fictitious person, or  
17                   falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as  
18                   genuine, any prescription for any drugs is guilty of forgery and upon conviction  
19                   thereof shall be punished by imprisonment in the state prison, or by imprisonment  
20                   in the county jail for not more than one year.

21                  10.    Health and Safety (H&S) Code section 11158 states:

22                   (a) Except as provided in Section 11159 or in subdivision (b) of this section,  
23                   no controlled substance classified in Schedule II shall be dispensed without a  
24                   prescription meeting the requirements of this chapter. Except as provided in  
25                   Section 11159 or when dispensed directly to an ultimate user by a practitioner,  
26                   other than a pharmacist or pharmacy, no controlled substance classified in  
27                   Schedule III, IV, or V may be dispensed without a prescription meeting the  
28                   requirements of this chapter.

29                  11.    H&S Code section 11173(a) states in pertinent part that no person shall obtain a  
30                  controlled substance by fraud, deceit, subterfuge or concealment of a material fact.

31                  12.    H&S Code section 11350(a) states in pertinent part that every person who possesses  
32                  any controlled substance without a written prescription of a physician, dentist, podiatrist, or

33                  ///



1 veterinarian licensed to practice in this state, shall be punished by imprisonment in the state  
2 prison.

### 3 COST RECOVERY

4 13. Code section 123.5 provides that the Board may request the administrative law  
5 judge to direct any licensee found to have committed a violation or violations of the licensing act  
6 to pay the Board a sum not to exceed the reasonable costs of investigation and enforcement of the  
7 case, including charges imposed by the Attorney General. Under section 125.3(c), a certified  
8 copy of the actual costs or a good faith estimate of costs where actual costs are not available,  
9 including investigative and enforcement costs and charges of the Attorney General up to the date  
10 of the hearing, signed by the designated representative of the entity bringing the proceeding shall  
11 be *prima facie* evidence of the reasonable costs of investigation and prosecution of the case.

### 12 DRUG

13 14. Hydrocodone/Acetaminophen (APAP) is a narcotic Schedule III controlled substance,  
14 pursuant to H&S Code section 11056(e)(4) and is used to relieve moderate to severe pain.

### 15 FACTS

16 15. On or about April 9, 2001, Respondent began working as a pharmacy technician at  
17 Kaiser Permanente Pharmacy #220, located in San Marcos, California. Beginning on September  
18 7, 2006, Respondent had a lawful prescription for Hydrocodone/APAP 10-325 with 5 authorized  
19 refills. Respondent received lawful prescriptions for Hydrocodone/APAP 10-325 through  
20 September 21, 2007. In November 2007, Respondent began manipulating the Kaiser Pharmacy  
21 computer system in order to illegally obtain controlled substances for her personal use.  
22 Respondent changed, altered and created prescriptions for herself for Hydrocodone/APAP 10-325  
23 by adding refills and increasing the quantity of pills on her prescriptions. After Respondent filled  
24 the prescriptions, she deleted the prescriptions from the pharmacy computer in order to escape  
25 detection. Respondent then re-filled the prescriptions she had just deleted from the pharmacy  
26 computer. On approximately June 4, 2008, Kaiser Permanente Pharmacy employees discovered  
27 Respondent had been manipulating the Kaiser Pharmacy computer system.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Furnishing Controlled Substances without a Prescription)

3 16. Respondent's license is subject to discipline for unprofessional conduct under Code  
4 sections 4301(j) and (o), for violation of 4059(a) and H&S Code section 11158(a) in that  
5 Respondent furnished a controlled substance without a prescription. The circumstances are as  
6 follows:

7 17. On or about November 26, 2007, December 14, 2007, December 17, 2007, December  
8 22, 2007, December 26, 2007, December 28, 2007, December 30, 2007 and January 18, 2008,  
9 while Respondent was employed as a pharmacy technician at Kaiser Permanente Pharmacy #220,  
10 Respondent furnished to herself at least 520 tablets of Hydrocodone/APAP 10-325, a controlled  
11 substance, using unauthorized prescriptions and unauthorized prescription refills as more  
12 particularly described in paragraph 14, above, and incorporated herein by reference.

13 SECOND CAUSE FOR DISCIPLINE

14 (Obtaining a Controlled Substance by Dishonesty and Fraud)

15 18. Respondent's license is subject to discipline for unprofessional conduct under Code  
16 sections 4301(f) and (j), in conjunction with H&S Code section 11173(a), in that Respondent  
17 obtained controlled substances by dishonesty, fraud, deceit and subterfuge. The circumstances  
18 are as follows:

19 19. On or about November 16, 2007, December 14, 2007, December 17, 2007, December  
20 26, 2007, December 28, 2007, December 29, 2007, December 30, 2007, January 8, 2008 and  
21 January 18, 2008, Respondent obtained controlled substances for herself by creating false refills  
22 and unauthorized prescriptions, deleting computerized records of medications dispensed to her,  
23 changing prescribers and directions for use on prescriptions, as well as increasing dispensing  
24 amounts on her prescriptions, in order to obtain at least 520 tablets of Hydrocodone/APAP 10-  
25 325, a controlled substance, without prescriber authorization while employed as a pharmacy  
26 technician at Kaiser Permanente Pharmacy #220 and as more particularly described in paragraph  
27 14, above, and incorporated herein by reference.

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1 THIRD CAUSE FOR DISCIPLINE

2 (Obtained Controlled Substances by False Documentation, Records and Alterations)

3 20. Respondent's license is subject to discipline for unprofessional conduct under Code  
4 sections 4301(g) and (j), 4324(a), in conjunction with H&S Code section 11173(a) in that  
5 Respondent obtained controlled substances by false documentation, records and alterations. The  
6 circumstances are as follows:

7 21. On or about November 16, 2007, December 14, 2007, December 17, 2007, December  
8 26, 2007, December 28, 2007, December 29, 2007, December 30, 2007, January 8, 2008 and  
9 January 18, 2008, Respondent obtained at least 520 tablets of Hydrocodone/APAP 10-325, a  
10 controlled substance, by creating false records and false prescription documentation, including  
11 unauthorized refills, unauthorized prescriptions, changing prescriber names, changing directions  
12 for use, deleting prescription dispensings, and increasing dispensing amounts, without prescriber  
13 authorization, while employed as a pharmacy technician at Kaiser Permanente Pharmacy #220  
14 and as more particularly described in paragraph 14, above, and incorporated herein by reference.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Possession of a Controlled Substance without a Prescription)

17 22. Respondent's license is subject to discipline for unprofessional conduct under Code  
18 sections 4301(j) and (o) in conjunction with Code section 4060 and H&S Code section 11350(a),  
19 in that Respondent possessed controlled substances without a prescription. The circumstances are  
20 as follows:

21 23. On or about November 26, 2007, December 14, 2007, December 17, 2007, December  
22 22, 2007, December 26, 2007, December 28, 2007, December 30, 2007 and January 18, 2008,  
23 while Respondent was employed as a pharmacy technician at Kaiser Permanente Pharmacy #220,  
24 Respondent furnished to herself at least 520 tablets of Hydrocodone/APAP 10-325, without a  
25 valid prescription or prescriber authorization while employed as a pharmacy technician at Kaiser  
26 Permanente Pharmacy #220 and as more particularly described in paragraph 14, above, and  
27 incorporated herein by reference.

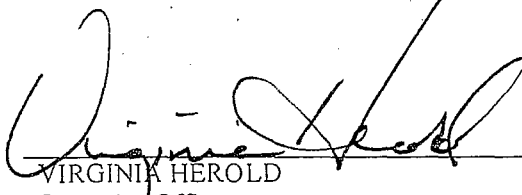
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PRAYER

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 36591, issued to Jennifer D. Gill;
2. Ordering Jennifer D. Gill 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: 10/30/09

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

SD2009804359  
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