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

In the Matter of the Accusation Against:

ALEX MINH THAI
2467 Grafton Street
El Cajon, CA 92020
Pharmacy Technician Registration No. TCH
52044

Respondent.

Case No. 5167

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On July 26, 2014, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 5167 against Alex Minh Thai (Respondent) before the Board. (Accusation attached as Exhibit A.)
2. On December 29, 2003, the Board issued Pharmacy Technician Registration No. TCH 52044 to Respondent. The Pharmacy Technician Registration expired on December 31, 2013, and has not been renewed. This lapse in licensure, however, pursuant to Business and Professions Code (Code) sections 118(b) and 4300.1 does not deprive the Board of its authority to institute or continue this disciplinary proceeding.
3. On August 4, 2014, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5167, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code (Code) section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is 2467 Grafton Street, El Cajon, CA 92020.

1 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
2 Registration based upon the following violations alleged in the Accusation which are supported
3 by the evidence contained in the Default Decision Evidence Packet in this case.

4 a. Respondent has subjected his registration to discipline under Code section 4301,
5 subdivision (f), in that he engaged in acts involving moral turpitude, dishonesty, fraud, deceit or
6 corruption by taking hydrocodone/apap, amoxicillin, and a Pepsi from CVS' Poway pharmacy for
7 himself.

8 b. Respondent has subjected his registration to disciplinary action under Code section
9 4301, subdivisions (j) and (o), in that he unlawfully self-prescribed and possessed
10 hydrocodone/apap, a controlled substance and dangerous drug without a valid prescription, in
11 violation of Code section 4060 and Health & Safety (H&S) Code section 11350.

12 c. Respondent has subjected his registration to disciplinary action under Code section
13 4301, subdivision (h), in that he unlawfully and fraudulently self-prescribed and then self-
14 administered hydrocodone/apap, a controlled substance without a valid prescription, in violation
15 of Code sections 4059 and 4324, and in violation of H&S Code sections 11170, 11173 (a), and
16 11350 (a),

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ORDER

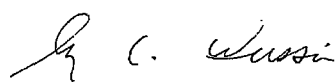
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 52044, heretofore issued to Respondent Alex Minh Thai, is revoked.

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

This Decision shall become effective on October 20, 2014.

It is so ORDERED September 19, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

Attachment: Exhibit A: Accusation

70932546.DOC / SD2014706999

Exhibit A

Accusation No. 5167

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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 5167

13 **ALEX MINH THAI**
2467 Grafton Street
El Cajon, CA 92020

ACCUSATION

14 **Pharmacy Technician Registration No.**
15 **TCH 52044**

Respondent.

16
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 (Board), Department of Consumer Affairs.

21 2. On December 29, 2003, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 52044 to Alex Minh Thai (Respondent). The Pharmacy Technician
23 Registration expired on December 31, 2013, and has not been renewed.

24 **JURISDICTION**

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

28

1 (c) Any other drug or device that by federal or state law can be lawfully
2 dispensed only on prescription or furnished pursuant to Section 4006.

3 8. Section 4059, subdivision (a) states:

4 (a) A person may not furnish any dangerous drug, except upon the
5 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A
6 person may not furnish any dangerous device, except upon the prescription of a
7 physician, dentist, podiatrist, optometrist, or veterinarian.

8 9. Section 4060 states:

9 No person shall possess any controlled substance, except that furnished to a
10 person upon the prescription of a physician, dentist, podiatrist, optometrist,
11 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
12 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
13 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician
14 assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section
15 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of,
16 or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of
17 Section 4052. This section shall not apply to the possession of any controlled
18 substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician,
19 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
20 nurse-midwife, nurse practitioner, or physician assistant, when in stock in
21 containers correctly labeled with the name and address of the supplier or
22 producer.

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

26 10. Section 4301 states in pertinent part:

27 The board shall take action against any holder of a license who is guilty of
28 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:

.....

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

26

27 (h) The administering to oneself, of any controlled substance, or the use of
28 any dangerous drug or of alcoholic beverages to the extent or in a manner as to
be dangerous or injurious to oneself, to a person holding a license under this

1 chapter, or to any other person or to the public, or to the extent that the use
2 impairs the ability of the person to conduct with safety to the public the practice
3 authorized by the license.

4

5 (j) The violation of any of the statutes of this state or of the United States
6 regulating controlled substances.

7

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

13

14 11. Section 11170 of the Health and Safety (H&S) Code states:

15 No person shall prescribe, or furnish a controlled substance for himself.

16 12. Section 11173, subdivision (a) of the H&S Code states:

17 No person shall obtain or attempt to obtain controlled substances, or procure
18 or attempt to procure the administration of or prescription for controlled substances,
19 (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of
20 a material fact.

21 13. Section 11350, subdivision (a) of the H&S Code states:

22 (a) Except as otherwise provided in this division, every person who
23 possesses (a) any controlled substance specified in subdivision (b) or (c), or
24 paragraph (f) of Section 11054, specified in paragraph (14), (15), or (20), of
25 subdivision (d) of Section 11054, or specified in subdivision (h) of Section
26 11056, or (2) any controlled substance classified in Schedule III, IV, or V
27 which is a narcotic drug, unless upon written prescription of a physician,
28 dentist, podiatrist, or veterinarian licensed to practice in this state, shall be
punished by imprisonment in the state prison.

COST RECOVERY

14. Section 125.3 states, in pertinent part, that the Board may request the 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. If a case settles, recovery of investigation and enforcement costs may be included in a
stipulated settlement.

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CONTROLLED SUBSTANCE

15. Hydrocodone/APAP is a Schedule III controlled substance as designated by H&S Code section 11056(e)(4), and is a dangerous drug pursuant to Code section 4022. Hydrocodone is a narcotic pain reliever.

FACTS

16. At all times mentioned herein, Respondent was employed as a pharmacy technician at a CVS pharmacy located at 12358 Poway Road, in Poway, California. On or about January 8, 2013, the pharmacy discovered a loss of 302 tablets of hydrocodone/APAP 5-500mg and 2,375 tablets of hydrocodone/APAP 10-325mg from its inventory. Pharmacy staff were interviewed and Respondent admitted taking hydrocodone/apap from the pharmacy stock for his personal use. Respondent also admitted taking amoxicillin and a Pepsi for himself, without paying for either.

FIRST CAUSE FOR DISCIPLINE

(Dishonest or Fraudulent Acts)

17. Respondent is subject to disciplinary action under section 4301, subdivisions (f), in that he engaged in acts involving moral turpitude, dishonesty, fraud, deceit or corruption by taking hydrocodone/apap, amoxicillin, and a Pepsi from CVS' Poway pharmacy for himself, as detailed above in paragraph 16.

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and (o), in that he unlawfully self-prescribed and possessed hydrocodone/apap, a controlled substance and dangerous drug without a valid prescription, in violation of Code section 4060 and H&S Code section 11350, as detailed above in paragraph 16.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Self Furnishing and Administering Controlled Substances)

19. Respondent is subject to disciplinary action under Code section 4301, subdivisions (h), in that he unlawfully and fraudulently self-prescribed and then self-administered hydrocodone/apap, a controlled substance without a valid prescription, in violation of Code

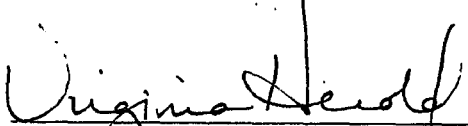
1 sections 4059 and 4324, and in violation of H&S Code sections 11170, 11173 (a), and 11350 (a),
2 as detailed above in paragraph 16.

3 **PRAYER**

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

- 6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 52044,
7 issued to Alex Minh Thai
8 2. Ordering Alex Minh Thai to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3;
11 3. Taking such other and further action as deemed necessary and proper.

12
13
14 DATED: 7/26/14



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

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