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

In the Matter of the Accusation Against:
STEPHANIE E. OLOA
15508 Wagner Street
San Lorenzo, CA 94580
Pharmacy Technician Registration No. TCH
30487

Respondent.

Case No. 5236

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 10, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5236 against Stephanie E. Oloa (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 26, 1999, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 30487 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5236 and will expire on April 30, 2017, unless renewed.

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1 3. On or about February 17, 2015, Respondent was served by Certified Mail copies of
2 the Accusation No. 5236, Statement to Respondent, Notice of Defense, Request for Discovery,
3 and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
5 is required to be reported and maintained with the Board. Respondent's address of record was
6 and is:

7 15508 Wagner Street
8 San Lorenzo, CA 94580.

9 4. Service of the Accusation was effective as a matter of law under the provisions of
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
11 124.

12 5. On or about March 12, 2015, the aforementioned documents were returned by the
13 U.S. Postal Service marked "Return to Sender; Unable to Forward."

14 6. Government Code section 11506 states, in pertinent part:

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

20 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of
21 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5236.

22 8. California Government Code section 11520 states, in pertinent part:

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

27 9. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Accusation No. 5236, finds that

1 the charges and allegations in Accusation No. 5236 are separately and severally found to be true
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
5 and Enforcement are \$9,449.50 as of April 21, 2015.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Stephanie E. Oloa has subjected
8 her Pharmacy Technician Registration No. TCH 30487 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

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

13 a. Commission of an act involving moral turpitude, dishonesty, fraud, deceit, and/or
14 corruption in that Respondent diverted hydrocodone/APAP 10-325 mg tablets from the pharmacy
15 where she was employed, in violation of section 4301, subdivisions (f) and (o) of the Business
16 and Professions Code.

17 b. Possession or conspiracy to possess, and/or assist in or abet the possession of, a
18 controlled substance without a prescription, in violation of section 4301, subdivisions (j) and/or
19 (o) and/or section 4060 of the Business and Professions Code, and/or Health and Safety Code
20 section 11350.

21 c. Obtaining, conspiring to obtain, and/or assisting in or abetting the obtaining of a
22 controlled substance by fraud, deceit, subterfuge, and/or concealment of a material fact, in
23 violation of section 4301, subdivisions (j) and/or (o) of the Business and Professions Code, and/or
24 Health and Safety Code section 11173, subdivision (a).

25 d. Unprofessional conduct in violation of section 4301 of the Business and Professions
26 Code.

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ORDER

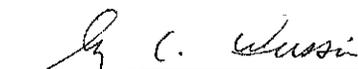
IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 30487, heretofore issued to Respondent Stephanie E. Oloa, is revoked.

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 (7) 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 June 19, 2015.

It is so ORDERED May 20, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
STAN C. WEISSER
Board President

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DOJ Matter ID:SF2014408793

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

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E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **STEPHANIE E. OLOA**
13 **15508 Wagner Street**
San Lorenzo, CA 94580
14 **Pharmacy Technician Registration No. TCH**
30487
15
16 Respondent.

Case No. 5236

ACCUSATION

17
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 (Board), Department of Consumer Affairs.
22 2. On or about August 26, 1999, the Board issued Pharmacy Technician Registration
23 Number TCH 30487 to Stephanie E. Oloa (Respondent). The Pharmacy Technician Registration
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 April 30, 2015, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 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
11 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.

27 ..."

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1 7. Section 4301 of the Code provides, in relevant part:

2 “The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
4 Unprofessional conduct shall include, but is not limited to, any of the following:

5 ...

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

9 ...”

10 “(j) The violation of any of the statutes of this state, or any other state, or of the United
11 States regulating controlled substances and dangerous drugs.

12 ...

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

17 ...”

18 8. Health and Safety Code section 11173, subdivision (a), provides that no person shall
19 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
20 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
21 or subterfuge; or (2) by the concealment of a material fact.

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

25 10. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for
26 compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III
27 controlled substance as designated by Health and Safety Code section 11056, subdivision (c)(4)

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1 and dangerous drug as designated by Business and Professions Code section 4022. The varying
2 compounds are also known generically as hydrocodone with APAP. These are all narcotic drugs.

3 **COSTS**

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, with failure of the licentiate to comply subjecting the license to not being
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
9 included in a stipulated settlement.

10 **FACTUAL BACKGROUND**

11 12. Between February and April 2013, Respondent was employed as a pharmacy
12 technician at a Kaiser Permanente pharmacy in Hayward, California. During that time period,
13 Respondent diverted at least 240 tablets of hydrocodone/APAP 10-325 mg from the pharmacy.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Commission of an Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, and/or**
16 **Corruption)**

17 13. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and
18 (o) of the Code in that Respondent committed an act involving moral turpitude, dishonesty, fraud,
19 deceit, and/or corruption when she diverted hydrocodone/APAP 10-325 mg tablets from the
20 pharmacy where she was employed. The circumstances of Respondent's conduct are set forth
21 above in paragraph 12.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Possession of a Controlled Substance)**

24 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
25 and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that
26 Respondent possessed, conspired to possess, and/or assisted in or abetted possession of, a
27 controlled substance, without a prescription. The circumstances of Respondent's conduct are set
28 forth above in paragraph 12.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Obtaining Controlled Substance by Fraud, Deceit, or Subterfuge)**

3 15. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
4 and/or (o) of the Code, and/or Health and Safety Code section 11173, subdivision (a), in that
5 Respondent obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
6 controlled substance by fraud, deceit, subterfuge, and/or concealment of a material fact. The
7 circumstances of Respondent's conduct are set forth above in paragraph 12.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

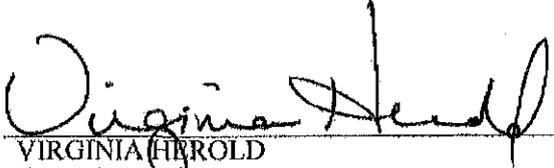
10 16. Respondent is subject to disciplinary action under section 4301 of the Code in that
11 Respondent engaged in unprofessional conduct. The circumstances of Respondent's conduct are
12 set forth above in paragraph 12.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 30487
17 issued to Stephanie E. Oloa;
- 18 2. Ordering Stephanie E. Oloa to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case pursuant to Business and Professions Code section
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23
24 DATED: 2/10/15


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

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