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

In the Matter of the Accusation Against:
LEANNE N. LEVA
2821 Rosedale Ave.
Soquel, CA 95073
Pharmacy Technician Registration No. TCH
34356

Respondent.

Case No. 5274

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about April 14, 2016, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5274 against Leanne N. Leva (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about August 21, 2000, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 34356 to Respondent. The Pharmacy Technician Registration expired on January 31, 2014, and has not been renewed.

3. On or about April 25, 2016, Respondent was served by Certified and First Class Mail copies of the Accusation No. 5274, Statement to Respondent, Notice of Defense, and Request for

1 Discovery at Respondent's address of record which, pursuant to Business and Professions Code
2 section 4100, is required to be reported and maintained with the Board. Respondent's address of
3 record was and is:

4 2821 Rosedale Ave.
5 Soquel, CA 95073.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124.

9 5. Government Code section 11506(c) states, in pertinent part:

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
16 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5274.

17 7. California Government Code section 11520(a) states, in pertinent part:

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

22 8. Pursuant to its authority under Government Code section 11520, the Board finds
23 Respondent is in default. The Board will take action without further hearing and, based on the
24 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
25 taking official notice of all the investigatory reports, exhibits and statements contained therein on
26 file at the Board's offices regarding the allegations contained in Accusation No. 5274, finds that
27 the charges and allegations in Accusation No. 5274, are separately and severally, found to be true
28 and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$13,301.00 as of May 20, 2016.

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Leanne N. Leva has subjected
3 her Pharmacy Technician Registration No. TCH 34356 to discipline.

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

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

8 a. Respondent is subject to disciplinary action under section 4301, subsection (f), of the
9 code in that Respondent committed acts involving dishonesty, fraud, or deceit.

10 b. Respondent is subject to disciplinary action under section 4301, subsection(s) (j)
11 and/or (o), of the Code in that Respondent violated Code section 4060 by possessing controlled
12 substances without a valid prescription.

13 c. Respondent is subject to disciplinary action under section 4301, subsection (j), of the
14 Code in that Respondent violated Health and Safety Code section 11173 by obtaining controlled
15 substances by fraud, deceit, or misrepresentation.

16 d. Respondent is subject to disciplinary action under section 4301, subsection (j) and/or
17 (o), of the Code in that Respondent violated Code section 4324 by falsely making, altering,
18 forging, and/or passing prescriptions for drugs.

19 e. Respondent is subject to disciplinary action under section 4301, subsection (g), of the
20 code in that Respondent knowingly made records and/or documents that falsely represents the
21 existence or nonexistence of a state of facts.

22 f. Respondent is subject to disciplinary action under section 4301 of the code in that
23 Respondent engaged in unprofessional conduct.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 34356, heretofore issued to Respondent Leanne N. Leva, 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 at 5:00 p.m. on August 12, 2016.

It is so ORDERED on July 13, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(LEANNE N. LEVA)

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Attorneys for Complainant

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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. 5274

11 **LEANNE N. LEVA**
12 **2821 Rosedale Ave.**
13 **Soquel, CA 95073**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
34356

15 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, Department of Consumer Affairs.

21 2. On or about August 21, 2000, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 34356 to Leanne N. Leva (Respondent). The Pharmacy Technician
23 Registration expired on January 31, 2014, and has not been renewed.

24 **JURISDICTION**

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

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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.

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

...
"(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.

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

..."

7. Section 4324 of the Code states:

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

"(b) Every person who has in his or her possession any drugs secured by a forged prescription shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year."

8. Section 4022 of the Code states

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

"(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

1 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
2 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
3 in with the designation of the practitioner licensed to use or order use of the device.

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

6 9. Section 4060 of the Code states:

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

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

21 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 11. Health and Safety Code section 11173 states:

26 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
27 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
28 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

DRUGS INVOLVED

12. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055. It is a dangerous drug pursuant to section 4022 of the Code.

13. Klonopin is a brand name for clonazepam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057. It is a dangerous drug pursuant to section 4022 of the Code.

14. Ativan is a brand name for lorazepam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057. It is a dangerous drug pursuant to section 4022 of the Code.

FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, Deceit)

15. Respondent is subject to disciplinary action under section 4301, subsection (f), of the code in that Respondent committed acts involving dishonesty, fraud, or deceit. The circumstances are as follows:

16. Between February 2008 and October 2011, Respondent worked as a pharmacy technician at Costco Pharmacy #470 in San Jose, CA.

17. On numerous occasions from about March 2008 until September 2011, Respondent made false, fictitious, and/or forged prescriptions for several controlled substances and dangerous drugs including: Vicodin, clonazepam, and lorazepam. Respondent is not authorized to prescribe controlled substances.

18. From about March 2008 until September 2011, Respondent in her capacity as a pharmacy technician, entered fictitious patient names and forged/false prescription information into the Costco Pharmacy computer system.

19. Respondent picked up and purchased Vicodin, clonazepam, and lorazepam pursuant to the false and/or forged prescriptions that she created.

1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 26. Respondent is subject to disciplinary action under section 4301 of the code in that
4 Respondent engaged in unprofessional conduct. The circumstances are described in paragraphs
5 16-21, above.

6 PRAYER

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

- 9 1. Revoking or suspending Pharmacy Technician Registration Number TCH 34356,
10 issued to Leanne N. Leva;
- 11 2. Ordering Leanne N. Leva to pay the Board of Pharmacy the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3;
- 14 3. Taking such other and further action as deemed necessary and proper.

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16
17 DATED: _____

4/14/16

Virginia Herold

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

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