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

In the Matter of the Accusation Against:
ANJELIKA DIORRE PERRY
941 S. Osage Ave., Apt. 211
Inglewood, CA 90301
**Pharmacy Technician Registration No. TCH
120303**

Respondent.

Case No. 5584
DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about November 23, 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. 5584 against Anjelika Diorre Perry (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about April 17, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 120303 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5584 and will expire on March 31, 2016, unless renewed.

1 3. On November 18, 2015, an Interim Suspension Order was entered against
2 Respondent, by Administrative Law Judge John E. DeCure, pending a full administrative
3 determination of her fitness to practice as a pharmacy technician. Respondent is prohibited from
4 practicing as a pharmacy technician.

5 4. On or about November 24, 2015, Respondent was served by Certified and First Class
6 Mail copies of the Accusation No. 5584, Statement to Respondent, Notice of Defense, Request
7 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
8 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
9 section 4100, is required to be reported and maintained with the Board. Respondent's address of
10 record was and is: 941 S. Osage Ave., Apt. 211, Inglewood, CA 90301.

11 5. Service of the Accusation was effective as a matter of law under the provisions of
12 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
13 124.

14 6. The aforementioned documents were not returned by the postal service.

15 7. Government Code section 11506 states, in pertinent part:

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

21 8. Respondent failed to file a Notice of Defense within 15 days after service upon him
22 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
23 5584.

24 9. California Government Code section 11520 states, in pertinent part:

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

29 10. Pursuant to its authority under Government Code section 11520, the Board finds
30 Respondent is in default. The Board will take action without further hearing and, based on the
31 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as

1 taking official notice of all the investigatory reports, exhibits and statements contained therein on
2 file at the Board's offices regarding the allegations contained in Accusation No. 5584, finds that
3 the charges and allegations in Accusation No. 5584, are separately and severally, found to be true
4 and correct by clear and convincing evidence.

5 11. Taking official notice of its own internal records, pursuant to Business and
6 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
7 and Enforcement is \$8,041.50 as of January 5, 2016.

8 DETERMINATION OF ISSUES

9 1. Based on the foregoing findings of fact, Respondent Anjelika Diorre Perry has
10 subjected his Pharmacy Technician Registration No. TCH 120303 to discipline.

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

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

15 a. Respondent is subject to disciplinary action under Business and Professions Code
16 sections 4300 and 4301, subdivision (f), in that Respondent engaged in an act involving moral
17 turpitude, dishonesty, or deceit, by her theft of 1800 tablets of alprazolam. After an audit on
18 June 21, 2015, by CVS Pharmacy's (CVS) Pharmacist-in-Charge Liana Pham ("PIC Pham"),
19 revealed a discrepancy of 1,400 alprazolam 2 mg tablets, security cameras were adjusted for
20 better observation. CVS also compared staffing schedules to invoices for the ordering and
21 receiving of alprazolam 2mg. There was a correlation between the days that Respondent had
22 worked and the majority of the days that the ordering and delivery of alprazolam 2mg had
23 occurred. On July 22, 2015, Respondent was interviewed by CVS Regional Pharmacy Diversion
24 Manager Robert Wiltfang ("Mr. Wiltfang") in which she admitted to diverting 18 bottles of
25 alprazolam, which equates to 1,800 tablets, between May and June 2015. Respondent was able to
26 divert the medication by placing the bottles in her pants pocket. On July 23, 2015, CVS reported
27 the theft to the Los Angeles Police Department. The next day, on July 24, 2015, the Board was
28 notified by CVS that Respondent had caused the loss of 1,800 tablets of alprazolam 2mg from

1 CVS Pharmacy #09985. After receipt of the theft notification from CVS, a Board Inspector
2 conducted an inspection of CVS Pharmacy #09985 on August 19, 2015. The Board Inspector
3 gathered materials to conduct his own audit of alprazolam 2mg, such as dispensing reports,
4 acquisition invoices, returns invoices, etc. Based on his own independent audit, the Board
5 Inspector determined there was a loss of 2,140 tablets of alprazolam 2mg between May 1, 2014
6 and July 22, 2015. He also determined that the vast majority of the losses occurred between May
7 1, 2015 and July 22, 2015, which is during the time period that Respondent admitted to stealing
8 the 18 bottles (1,800 tablets);

9 b. Respondent is also subject to disciplinary action under Business and Professions code
10 sections 4300 and 4301, subdivision (f), in that Respondent engaged in an act involving moral
11 turpitude, dishonesty, or deceit, by her theft of 1800 tablets of alprazolam;

12 c. Respondent is subject to disciplinary action under Business and Professions code
13 sections 4300, 4301 and 4060 of the Code, in that she possessed controlled substances that were
14 not furnished to her upon prescription of a physician;

15 d. Respondent is subject to disciplinary action under Business and Professions code
16 sections 4300, and 4301, subdivision (j), for violation of any of the statutes of this state, or any
17 other state, or of the United States regulating controlled substances and dangerous drugs,
18 including Health and Safety Code sections 11153, subdivision (a), Health and Safety Code
19 section 11173, subdivision (a), and Health and Safety Code section 11350;

20 e. Respondent is subject to disciplinary action under sections 4300 and 4301,
21 subdivision (o), for violation of federal and/or state pharmacy law, including sections 4059 and
22 4060 of the Code.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 120303, heretofore issued to Respondent Anjelika Diorre Perry, 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 March 25, 2016.

It is so ORDERED February 24, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

51969229.DOCX
DOJ Matter ID: LA2015603863

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

(ANJELIKA DIORRE PERRY)

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5584

12 **ANJELIKA DIORRE PERRY**
13 941 S. Osage Ave., Apt. 211
Inglewood, CA 90301

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **120303**

16 Respondent.

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, Department of Consumer Affairs.

22 2. On or about April 17, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 120303 to Anjelika Diorre Perry (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 March 31, 2016, unless renewed. Pursuant to an Interim Suspension
26 Order Issued on November 18, 2015, Respondent is currently prohibited from practicing as a
27 pharmacy technician.

28 ///

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

5 (j) The violation of any of the statutes of this state, or any other state, or of the United
6 States regulating controlled substances and dangerous drugs.
7 ...

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

13 7. Section 4022 of the Code states

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

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

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

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

23 8. Section 4059, subdivision, (a) of the Code states:

24 "A person may not furnish any dangerous drug, except upon the prescription of a physician,
25 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A
26 person may not furnish any dangerous device, except upon the prescription of a physician,
27 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7,"
28 ///

1 9. Section 4060 of the Code states:

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

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

16 DRUG STATUTES

17 10. Health and Safety Code section 11007 states: " 'Controlled substance,' unless
18 otherwise specified, means a drug, substance, or immediate precursor which is listed in any
19 schedule in Section 11054, 11055, 11056, 11057, or 11058."

20 11. Health and Safety Code section 11153, subdivision (a), states:

21 "A prescription for a controlled substance shall only be issued for a legitimate medical
22 purpose by an individual practitioner acting in the usual course of his or her professional practice.
23 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
24 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
25 prescription. Except as authorized by this division, the following are not legal prescriptions: (1)
26 an order purporting to be a prescription which is issued not in the usual course of professional
27 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
28 controlled substances, which is issued not in the course of professional treatment or as part of an

1 authorized narcotic treatment program, for the purpose of providing the user with controlled
2 substances, sufficient to keep him or her comfortable by maintaining customary use."

3 12. Health and Safety Code section 11173, subdivision (a), states:

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

7 14. Health and Safety Code section 11350 states:

8 "(a) Except as otherwise provided in this division, every person who possesses (1) any
9 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
10 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
11 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
12 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
13 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
14 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of
15 Section 1170 of the Penal Code."

16 COSTS

17 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licensee found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case, with failure of the licensee to comply subjecting the license to not
21 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
22 may be included in a stipulated settlement.

23 DRUGS

24 14. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance
25 pursuant to Health and Safety Code section 11057, subdivision (d)(1) and is a dangerous drug
26 pursuant to Business and Professions Code section 4022. Alprazolam is primarily used for the
27 treatment of anxiety.

28 ///

1 FACTS

2 15. On June 21, 2015, Pharmacist-in-Charge Liana Pham ("PIC Pham") of CVS
3 Pharmacy (CVS), pursuant to her normal practice, reviewed the balance on hand reports for
4 various drugs. In review of the balance on hand report for the period June 13, 2014 to June 20,
5 2015, she discovered a negative quantity of 1,400 alprazolam 2mg tablets. Following this
6 discovery, PIC Pham conducted a stock on hand count of alprazolam 2mg, reviewed invoices for
7 alprazolam 2mg, and reviewed dispensing information for alprazolam 2mg. She confirmed that
8 1,400 tablets were missing. Accordingly, on June 24, 2015, PIC Pham reported the loss to her
9 supervisor and began to conduct daily counts of the medication.

10 16. In order to determine the source of the loss, CVS readjusted its security cameras in
11 the pharmacy for better observation. CVS also compared staffing schedules to invoices for the
12 ordering and receiving of alprazolam 2mg. There was a correlation between the days that
13 Respondent had worked and the majority of the days that the ordering and delivery of alprazolam
14 2mg had occurred.

15 17. On July 22, 2015, Respondent was interviewed by CVS Regional Pharmacy
16 Diversion Manager Robert Wiltfang ("Mr. Wiltfang") in which she admitted to diverting 18
17 bottles of alprazolam between May and June 2015. In a written statement to Mr. Wiltfang,
18 Respondent claimed that she took the medication because in May 2015, she had a conversation
19 with a man known only as "Get Down" on the rooftop of CVS Pharmacy #09985 and the man
20 threatened to kidnap her son if she did not provide him with alprazolam. Respondent would meet
21 with "Get Down" about 2 times a week in various parking lots to deliver the drugs, usually 2
22 bottles at a time. In total, Respondent admitted to stealing 18 bottles, which equates to 1,800
23 tablets. Respondent was able to divert the medication by placing the bottles in her pants pocket.

24 18. On July 24, 2015, CVS's final reconciliation report from May 1, 2014 to July 22,
25 2015 showed a shortage of 2,180 tablets of alprazolam 2mg.

26 19. On July 24, 2015, the Board was notified that Respondent had caused the loss of
27 1,800 tablets of alprazolam 2mg from CVS Pharmacy #09985.
28

1 20. After receipt of the theft notification, a Board Inspector conducted an inspection of
2 CVS Pharmacy #09985 on August 19, 2015. The Board Inspector gathered materials to conduct
3 his own audit of alprazolam 2mg, such as dispensing reports, acquisition invoices, returns
4 invoices, etc. Based on his own independent audit, the Board Inspector determined there was a
5 loss of 2,140 tablets of alprazolam 2mg between May 1, 2014 and July 22, 2015. He also
6 determined that the vast majority of the losses occurred between May 1, 2015 and July 22, 2015,
7 which is during the time period that Respondent admitted to stealing the 18 bottles (1,800
8 tablets).

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct; Act Involving Moral Turpitude, Dishonesty, or Deceit)

11 21. Respondent is subject to disciplinary action under sections 4300 and 4301,
12 subdivision (f), in that Respondent engaged in an act involving moral turpitude, dishonesty, or
13 deceit, by her theft of 1800 tablets of alprazolam. Complainant refers to, and by this reference
14 incorporates, the allegations set forth above in paragraphs 16 through 17, and 19 through 20,
15 inclusive, as though set forth fully herein.

16 **SECOND CAUSE FOR DISCIPLINE**

17 (Possession of Controlled Substance)

18 22. Respondent is subject to disciplinary action under sections 4300, 4301 and 4060 of
19 the Code, in that she possessed controlled substances that were not furnished to her upon
20 prescription of a physician. Complainant refers to, and by this reference incorporates, the
21 allegations set forth above in paragraphs 16 through 17, and 19 through 20, inclusive, as though
22 set forth fully herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct; Violation of Drug Statutes)

25 23. Respondent is subject to disciplinary action under sections 4300, and 4301,
26 subdivision (j), for violation of any of the statutes of this state, or any other state, or of the United
27 States regulating controlled substances and dangerous drugs, including Health and Safety Code
28 sections 11153, subdivision (a), Health and Safety Code section 11173, subdivision (a), and

1 Health and Safety Code section 11350. Complainant refers to, and by this reference incorporates,
2 the allegations set forth above in paragraphs 16 through 17, and 19 through 20, inclusive, as
3 though set forth fully herein.

4 FOURTH CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct; Violation of Federal and/or State Pharmacy Law)

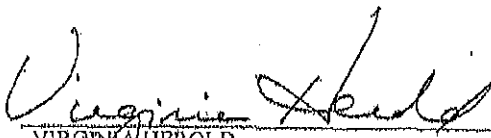
6 24. Respondent is subject to disciplinary action under sections 4300 and 4301,
7 subdivision (o), for violation of federal and/or state pharmacy law, including sections 4059 and
8 4060 of the Code. Complainant refers to, and by this reference incorporates, the allegations set
9 forth above in paragraphs 16 through 17, and 19 through 20, inclusive, as through set forth fully
10 herein.

11 PRAYER

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

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 120303,
15 issued to Anjelika Diorre Perry;
- 16 2. Ordering Anjelika Diorre Perry to pay the Board of Pharmacy the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21
22 DATED: 11/23/15


23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

26 LA2015603863
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