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

12 In the Matter of the Accusation Against:

13 **CRYSTAL NICHOLE CUSIC**  
14 **1530 Fulton Ave., #154**  
15 **Sacramento, CA 95825**

16 **Pharmacy Technician Registration**  
17 **No. TCH 110409**

18 Respondent.

Case No. 5602

OAH No. 2016020347

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

19 **FINDINGS OF FACT**

20 1. On or about March 2, 2016, Complainant Virginia K. Herold, in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,  
22 ("Complainant") filed Accusation No. 5602 against Crystal Nichole Cusic ("Respondent") before  
23 the Board of Pharmacy. (A true and correct copy of Accusation No. 5602 is attached hereto,  
marked Exhibit A, and incorporated herein by reference.)

24 2. On or about February 7, 2011, the Board of Pharmacy ("Board") issued Pharmacy  
25 Technician Registration No. TCH 110409 to Respondent. The Pharmacy Technician Registration  
26 expired on February 29, 2016, and has not been renewed. The registration is suspended as of  
27 February 29, 2016, pursuant to the Board's order in the Decision on Petition for Interim  
28 Suspension Order in the disciplinary action titled "*In the Matter of the Petition for Interim*

1 *Suspension Order Against: Crystal Nichole Cusic,*” Case No. CI 2015 6657 I. (A true and correct  
2 copy is attached to Exhibit A [Accusation], hereto, marked exhibit A, and incorporated herein by  
3 reference.)

4 3. On or about March 3, 2016, Respondent was served by Certified and First Class Mail  
5 copies of the Accusation No. 5602, Statement to Respondent, Notice of Defense, Request for  
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
8 is required to be reported and maintained with the Board. Respondent's address of record was  
9 and is: Crystal Nichole Cusic, 1530 Fulton Ave., #154, Sacramento, CA 95825.

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

13 5. None of the aforementioned documents served by Certified and First Class Mail were  
14 returned by the U.S. Postal Service.

15 6. Government Code section 11506, subdivision (c), 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  
18 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
19 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
20 discretion may nevertheless grant a hearing.

21 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
22 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 5602.

23 8. California Government Code section 11520(a) states, in pertinent part:

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

28 9. Pursuant to its authority under Government Code section 11520, the Board finds  
Respondent is in default. The Board will take action without further hearing and, based on the  
relevant evidence contained in the Default Decision Evidence Investigatory Packet in this matter,  
as well as taking official notice of all the investigatory reports, exhibits and statements contained

1 therein on file at the Board's offices regarding the allegations contained in Accusation No. 5602,  
2 finds that the charges and allegations in Accusation No. 5602, are separately and severally, found  
3 to be true and correct by clear and convincing evidence.

4 10. Taking official notice of its own internal records, pursuant to Business and  
5 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
6 and Enforcement is \$8,067.50 as of April 7, 2016.

#### 7 **DETERMINATION OF ISSUES**

8 1. Based on the foregoing findings of fact, Respondent Crystal Nichole Cusic  
9 ("Respondent") has subjected her Pharmacy Technician Registration No. TCH 110409 to  
10 discipline.

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

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

16 a. Respondent violated Business and Professions Code ("Code"), subdivision (a),<sup>1</sup>  
17 in that while employed and on duty as a pharmacy technician, she committed acts that were  
18 grossly immoral.

19 b. Respondent violated Code section 4301, subdivision (f), in that while employed  
20 and on duty as a pharmacy technician, she committed acts involving moral turpitude, dishonesty,  
21 fraud, deceit, or corruption.

22 c. Respondent violated Code section 4301, subdivision (h), in that while  
23 employed and/or on duty as a pharmacy technician, Respondent self-administered controlled  
24 substances and/or used dangerous drugs to an extent or in a manner dangerous or injurious to  
25 herself, others, and/or the public.

26 <sup>1</sup> Page 5, line 24, contains a typo stating Code section 4301, "subdivision (f)." The  
27 subdivision is hereby amended to state "subdivision (a)." Further, page 6, line 17, and page 7, line  
28 4, contain typos stating "Cause for Denial" which are hereby amended to state "Cause for  
Discipline."

1 d. Respondent violated Code section 4301, subdivision (j), in that while employed  
2 and/or on duty as a pharmacy technician as follows: (1) Respondent obtained controlled  
3 substances by fraud, deceit, misrepresentation or subterfuge in violation of Health and Safety  
4 Code section 11173, subdivision (a); (2) Respondent self-administered controlled substances in  
5 violation of Health and Safety Code section 11170; and (3) Respondent possessed controlled  
6 substances without valid prescriptions from a physician, dentist, podiatrist, optometrist,  
7 veterinarian, or naturopathic doctor, in violation of Code section 4060.

8 e. Respondent violated Code section 4301, subdivision (o), in that while  
9 employed and on duty as a pharmacy technician, Respondent violated or attempted to violate,  
10 directly or indirectly, a provision or term of the Pharmacy Law, specifically, Code section 4060.

11 4. In aggravation: On or about February 23, 2016, pursuant to the Decision on Petition  
12 for Interim Suspension Order in the disciplinary action entitled "*In the Matter of the Petition for*  
13 *Interim Suspension Order Against: Crystal Nichole Cusic,*" Case No. CI 2015 6657 I, an interim  
14 suspension order was issued against Respondent pursuant to Business and Professions Code  
15 section 494, subdivision (a), suspending her from practicing as a pharmacy technician until the  
16 within Accusation was filed and a decision was rendered thereon. (See Exhibit B, hereto.)

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**ORDER**

**IT IS SO ORDERED** that Pharmacy Technician Registration No. TCH 110409, heretofore issued to Respondent Crystal Nichole Cusic ("Respondent") 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 June 9, 2016.

It is so ORDERED on May 10, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.

Board President

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Attachment:

Exhibit A: Accusation

# Exhibit A

## Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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Facsimile: (916) 327-8643  
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. 5602

12 **CRYSTAL NICHOLE CUSIC**  
13 **1530 Fulton Ave., #154**  
**Sacramento, CA 95825**

**ACCUSATION**

14 **Pharmacy Technician Registration**  
15 **No. TCH 110409**

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 ("Board"), Department of Consumer Affairs.

22 2. On or about February 7, 2011, the Board issued Pharmacy Technician Registration  
23 Number TCH 110409 ("registration") to Crystal Nichole Cusic ("Respondent"). On or about  
24 February 23, 2016, pursuant to the Decision on Petition for Interim Suspension Order in the  
25 disciplinary action entitled "In the Matter of the Petition for Interim Suspension Order Against:  
26 Crystal Nichole Cusic", Case No. CI 2015 6657 I, an interim suspension order was issued against  
27 Respondent pursuant to Business and Professions Code section 494, subdivision (a), suspending  
28 her from practicing as a pharmacy technician until the within Accusation is filed and a decision is

1 rendered thereon. A true and correct copy of the Decision is attached hereto as exhibit A, and  
2 incorporated herein by reference. The registration will expire on June 30, 2016, unless renewed.

3 **JURISDICTION/STATUTORY PROVISIONS**

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

7 4. Code section 4300 states, in pertinent part:

8 (a) Every license issued may be suspended or revoked.

9 (b) The board shall discipline the holder of any license issued by the  
10 board, whose default has been entered or whose case has been heard by the board and  
found guilty, by any of the following methods:

11 (1) Suspending judgment.

12 (2) Placing him or her upon probation.

13 (3) Suspending his or her right to practice for a period not exceeding one  
14 year.

15 (4) Revoking his or her license.

16 (5) Taking any other action in relation to disciplining him or her as the  
board in its discretion may deem proper . . .

17 5. Code section 4300.1 states:

18 The expiration, cancellation, forfeiture, or suspension of a board-issued  
19 license by operation of law or by order or decision of the board or a court of law, the  
placement of a license on a retired status, or the voluntary surrender of a license by a  
20 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
investigation of, or action or disciplinary proceeding against, the licensee or to render  
21 a decision suspending or revoking the license.

22 6. Code section 4301 states, in pertinent part:

23 The board shall take action against any holder of a license who is guilty of  
unprofessional conduct . . . Unprofessional conduct shall include, but is not limited  
24 to, any of the following:

25 (a) Gross immorality.

26 (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  
27 licensee or otherwise, and whether the act is a felony or misdemeanor or not.



1 (h) The administering to oneself, of any controlled substance, or the use of  
2 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
3 dangerous or injurious to oneself, to a person holding a license under this chapter, or  
4 to any other person or to the public, or to the extent that the use impairs the ability of  
5 the person to conduct with safety to the public the practice authorized by the license.

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

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 chapter  
10 or of the applicable federal and state laws and regulations governing pharmacy,  
11 including regulations established by the board or by any other state or federal  
12 regulatory agency.

13 7. Code section 4022 states, pertinent part:

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

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

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

20 8. Code section 4060 states, in pertinent part:

21 A person shall not possess any controlled substance, except that furnished to  
22 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
23 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
24 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
25 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
26 pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
27 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. . . .

28 9. Health and Safety Code section 11170 states that no person shall prescribe,  
administer, or furnish a controlled substance for himself.

10. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that  
"[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
misrepresentation, or subterfuge . . ."

#### COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that a Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

### 3 DRUG CLASSIFICATIONS

4 12. **Alprazolam** is a Schedule IV controlled substance as designated by Health and Safety  
5 Code section 11057, subdivision (d)(1), and a dangerous drug within the meaning of Code section  
6 4022 in that it can only be obtained by a valid prescription. Alprazolam is a depressant and  
7 belongs to the benzodiazepine class of central nervous system drugs. Alprazolam is used to treat  
8 anxiety and panic disorders. Xanax is a brand of Alprazolam.

9 13. **Buprenorphine** is a Schedule V controlled substance as designated by Health and  
10 Safety Code section 11058, subdivision (d), and a dangerous drug within the meaning of Code  
11 section 4022 in that it can only be obtained by a valid prescription. Buprenorphine is a Schedule  
12 III controlled substance according to the Federal Drug Enforcement Administration. Buprenor-  
13 phine is a narcotic analgesic and is used to treat moderate to severe pain and for opioid addiction.  
14 Subutex and Buprenex are brands of Buprenorphine.

15 14. **Zolpidem Tartrate** is a Schedule IV controlled substance as designated by Health  
16 and Safety Code section 11057, subdivision (d)(32), and a dangerous drug within the meaning of  
17 Code section 4022 in that it can only be obtained by a valid prescription. Zolpidem Tartrate is  
18 used to treat insomnia. Ambien is a brand of Zolpidem Tartrate.

### 19 FACTUAL ALLEGATIONS

20 15. In and between March 2013 and July 28, 2015, Respondent was employed as a  
21 pharmacy technician at CVS/Pharmacy Store #9992 located on Arden Way in Sacramento,  
22 California ("CVS/Pharmacy #9992").

23 16. On or about June 15, 2015, CVS headquarters directed CVS/Pharmacy #9992 to  
24 conduct a random, routine audit of the number of Alprazolam/Xanax 1mg tablets in its inventory.  
25 The audit revealed that Alprazolam/Xanax tablets were missing from the pharmacy's inventory.  
26 In and between June 2015 and July 28, 2015, CVS conducted an investigation of the missing  
27 Alprazolam/Xanax and interviewed pharmacy staff including Respondent.  
28

1 17. On or about July 28, 2015, during an interview with the Regional Diversion Manager  
2 for CVS Health and the CVS Pharmacy Supervisor, District 3, Respondent admitted that she had  
3 stolen approximately 150 tablets of Zolpidem Tartrate 10mg, 600 tablets of Alprazolam 1mg, and  
4 30 tablets of Buprenorphine 8mg from CVS/Pharmacy #9992. That same day, Respondent signed  
5 a written statement, admitting that she had taken the controlled substances and had placed them in  
6 her pants packet while on duty. Respondent also admitted that: on numerous occasions during  
7 the period of approximately July 2014 to July 2015, she had stolen approximately 600 tablets of  
8 Alprazolam 1mg; on one occasion during the period of approximately January 2015 to July 2015,  
9 she had stolen approximately 30 tablets of Buprenorphine 8mg on one occasion; and, on  
10 numerous occasions during the period of approximately January 2015 to July 2015, she had stolen  
11 approximately 150 tablets of Zolpidem Tartrate 10mg. Based upon Respondent's admissions, the  
12 Diversion Manager determined that the reimbursement value of all of the tablets stolen by  
13 Respondent was \$676.74. Respondent signed a promissory note, agreeing to reimburse CVS the  
14 amount of \$676.74. Respondent was terminated from CVS on or about July 28, 2016. She paid  
15 \$30.00 toward the reimbursement in August 2015 and the remaining balance on February 12,  
16 2016.

17 18. On or about July 28, 2015, the Diversion Manager reported the theft of the  
18 Alprazolam 1mg, Buprenorphine 8mg, and Zolpidem Tartrate 10mg to law enforcement, and  
19 informed them that she was detaining Respondent. Respondent fled the scene prior to law  
20 enforcement's arrival at CVS/Pharmacy #9992.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Gross Immorality)**

23 19. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
24 Code section 4301, subdivision (f), in that while employed and on duty as a pharmacy technician  
25 at CVS/Pharmacy #9992, Respondent committed acts that were grossly immoral, as follows: In  
26 and between July 2014 and January 2015, Respondent stole or diverted approximately 150 tablets  
27 of Zolpidem Tartrate 10mg, 600 tablets of Alprazolam 1mg, and 30 tablets of Buprenorphine 8mg  
28 from the pharmacy for self-administration.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

3 20. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
4 Code section 4301, subdivision (f), in that while employed and on duty as a pharmacy technician  
5 at CVS/Pharmacy #9992, Respondent committed acts involving moral turpitude, dishonesty,  
6 fraud, deceit, or corruption, as follows: In and between July 2014 and January 2015, Respondent  
7 stole or diverted approximately 150 tablets of Zolpidem Tartrate 10mg, 600 tablets of Alprazolam  
8 1mg, and 30 tablets of Buprenorphine 8mg from the pharmacy for self-administration.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Self-Administration and Use of Controlled Substances and Dangerous Drugs)**

11 21. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
12 Code section 4301, subdivision (h), in that in and between July 2014 and January 2015, while  
13 employed and/or on duty as a pharmacy technician at CVS/Pharmacy #9992, Respondent self-  
14 administered the controlled substances Zolpidem Tartrate 10mg, 600 tablets of Alprazolam 1mg,  
15 and 30 tablets of Buprenorphine 8mg and/or used the dangerous drugs to an extent or in a manner  
16 dangerous or injurious to herself, others, and/or the public.

17 **FOURTH CAUSE FOR DENIAL**

18 **(Violations of State Laws Regulating Controlled Substances and Dangerous Drugs)**

19 22. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
20 Code section 4301, subdivision (j), in that in and between July 2014 and January 2015, while  
21 employed and/or on duty as a pharmacy technician at CVS/Pharmacy #9992, Respondent did the  
22 following:

23 a. Respondent obtained the controlled substances Zolpidem Tartrate 10mg, Alprazolam  
24 1mg, and Buprenorphine 8mg by fraud, deceit, misrepresentation, or subterfuge, in violation of  
25 Health and Safety Code section 11173, subdivision (a).

26 b. Respondent self-administered the controlled substances Zolpidem Tartrate 10mg,  
27 Alprazolam 1mg, and Buprenorphine 8mg in violation of Health and Safety Code section 11170.  
28

1 c. Respondent possessed the controlled substances Zolpidem Tartrate 10mg, Alprazolam  
2 1mg, and Buprenorphine 8mg without valid prescriptions from a physician, dentist, podiatrist,  
3 optometrist, veterinarian, or naturopathic doctor, in violation of Code section 4060.

4 **FIFTH CAUSE FOR DENIAL**

5 **(Violations of the Pharmacy Law)**

6 23. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
7 Code section 4301, subdivision (o), in that in and between July 2014 and January 2015, while  
8 employed and on duty as a pharmacy technician at CVS/Pharmacy #9992, Respondent violated or  
9 attempted to violate, directly or indirectly, a provision or term of the Pharmacy Law (Bus. & Prof.  
10 Code § 4300, et seq.), specifically, Code section 4060, as set forth above.

11 **PRAYER**

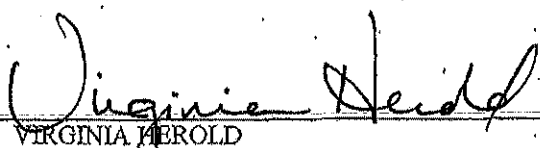
12 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 110409,  
15 issued to Crystal Nichole Cusic;

16 2. Ordering Crystal Nichole Cusic 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; and

19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: 3/2/16

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