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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:**

Case No. 3274

13 **JUANA ALVARADO VERDUZCO**
3624 Kentucky
Riverbank, CA 95367

A C C U S A T I O N

14 Original Pharmacy Technician
Registration No. TCH 17269

15 Respondent.

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18 Complainant alleges:

19 PARTIES.

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On or about September 26, 1995, the Board of Pharmacy issued Original
23 Pharmacy Technician Registration Number TCH 17269 to Juana Alvarado Verduzco
24 (Respondent). The Original Pharmacy Technician Registration was in full force and effect at all
25 times relevant to the charges brought herein and will expire on November 30, 2010, unless
26 renewed.

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JURISDICTION

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

5 4. Section 4300 of the Code states, in pertinent part:

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

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

9 (1) Suspending judgment.

10 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

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

16 5. Section 4301 of the Code states, in pertinent part (emphasis added):

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

21 (a) Gross immorality.

22 ...

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

26 ...

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

 ...

 (i) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. The record of conviction of
a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
United States Code regulating controlled substances or of a violation of the
statutes of this state regulating controlled substances or dangerous drugs shall be
conclusive evidence of unprofessional conduct. In all other cases, the record of
conviction shall be conclusive evidence only of the fact that the conviction
occurred. The board may inquire into the circumstances surrounding the
commission of the crime, in order to fix the degree of discipline or, in the case of

1 a conviction not involving controlled substances or dangerous drugs, to determine
2 if the conviction is of an offense substantially related to the qualifications,
3 functions, and duties of a licensee under this chapter. A plea or verdict of guilty
4 or a conviction following a plea of nolo contendere is deemed to be a conviction
5 within the meaning of this provision. The board may take action when the time
6 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
7 or when an order granting probation is made suspending the imposition of
8 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
9 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
10 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
11 information, or indictment.

12 ...

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

18 (p) Actions or conduct that would have warranted denial of a license.

19 6. Section 4060 of the Code states, in pertinent part:

20 No person shall possess any controlled substance, except that furnished to
21 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
22 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
23 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
24 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
25 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or
26 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
27 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.
28 This section shall not apply to the possession of any controlled substance by a
manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
practitioner, or physician assistant, when in stock in containers correctly labeled
with the name and address of the supplier or producer.

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.

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1 8. Health and Safety Code section 11350, subdivision (a) states:

2 Except as otherwise provided in this division, every person who possesses
3 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
4 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
5 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
6 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
7 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
8 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed
9 to practice in this state, shall be punished by imprisonment in the state prison.

7 9. Health and Safety Code section 11173, subdivision (a) states, in pertinent
8 part, that no person "shall obtain or attempt to obtain controlled substances, or procure or attempt
9 to procure the administration of or prescription for controlled substances . . .by fraud, deceit,
10 misrepresentation , or subterfuge . . . "

11 10. Section 475 of the Code states, in pertinent part:

12 (a) Notwithstanding any other provisions of this code, the provisions of this
13 division shall govern the denial of licenses on the grounds of:
14 ...

14 (2) Conviction of a crime.

15 (3) Commission of any act involving dishonesty, fraud or deceit with the intent to
16 substantially benefit himself or another, or substantially injure another.

17 (4) Commission of any act which, if done by a licentiate of the business or
18 profession in question, would be grounds for suspension or revocation of license.

18 11. Section 490 of the Code states, in pertinent part (emphasis added):

19 (a) In addition to any other action that a board is permitted to take against
20 a licensee, a board may suspend or revoke a license on the ground that the licensee
21 has been convicted of a crime, if the crime is substantially related to the
22 qualifications, functions, or duties of the business or profession for which the
23 license was issued.

22 (b) Notwithstanding any other provision of law, a board may exercise any
23 authority to discipline a licensee for conviction of a crime that is independent of
24 the authority granted under subdivision (a) only if the crime is substantially
25 related to the qualifications, functions, or duties of the business or profession for
26 which the licensee's license was issued.

25 (c) A conviction within the meaning of this section means a plea or verdict
26 of guilty or a conviction following a plea of nolo contendere. Any action that a
27 board is permitted to take following the establishment of a conviction may be
28 taken when the time for appeal has elapsed, or the judgment of conviction has
29 been affirmed on appeal, or when an order granting probation is made suspending
30 the imposition of sentence, irrespective of a subsequent order under the provisions
31 of Section 1203.4 of the Penal Code.

1 On that same date, a search of Respondent's purse by the Turlock Police Department revealed a
2 package containing 44 pills that were later identified as Norco hydrocodone, a controlled
3 substance. The search also revealed two prescription bottle labels, one issued to Luis Martin and
4 the other issued to Lupe Perez. Respondent admitted to the officer that the labels were from
5 bottles that she had obtained via fraudulent prescriptions. Accordingly, Respondent was in
6 violation of Health and Safety Code sections 11350(a) and 11173(a)(1), in addition to Business
7 and Professions Code section 4060.

8 THIRD CAUSE FOR DISCIPLINE

9 (Violation of Laws Governing Pharmacy)

10 19. Respondent is subject to disciplinary action under section 4301,
11 subdivision (o), in that she violated or attempted to violate directly or indirectly, a provision or
12 term of the Pharmacy Law (Business and Professions Code section 4000 et seq.). As set forth
13 above in paragraphs 16 and 18, Respondent was in violation of Business and Professions Code
14 section 4324.

15 FOURTH CAUSE FOR DISCIPLINE

16 (Unprofessional Conduct - Gross Immorality)

17 20. Respondent is subject to disciplinary action under section 4301,
18 subdivision (a) in that she committed an act of gross immorality, as set forth more fully above in
19 paragraphs 16 and 18.

20 FIFTH CAUSE FOR DISCIPLINE

21 (Unprofessional Conduct - Moral Turpitude)

22 21. Respondent is subject to disciplinary action under section 4301,
23 subdivision (f) in that she committed an act involving moral turpitude, dishonesty, fraud, deceit,
24 or corruption, as set forth more fully above in paragraphs 16 and 18.

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SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Actions or Conduct Warranting Denial of a License)

22. Respondent is subject to disciplinary action under section 4301, subdivision (p) in that she committed an act that would have warranted denial of a license, as set forth more fully above in paragraphs 16 and 18.

PRAYER

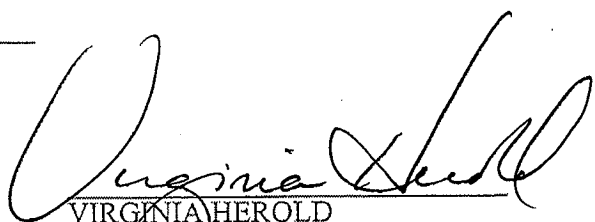
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Original Pharmacy Technician Registration Number TCH 17269, issued to Juana Alvarado Verduzco;

2. Ordering Juana Alvarado Verduzco to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 4/19/09



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

SA2009307936

Final Verduzco Accusation.wpd