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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. 3333

11 **ANGELINA IBARRA**  
12 **244 Wisteria Drive**  
13 **East Palo Alto, California 94303**  
14 **Pharmacy Technician License No. TCH 18088**  
15 Respondent.

**A C C U S A T I O N**

16 Complainant alleges:

17 PARTIES

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

20 2. On or about January 4, 1996, the Board of Pharmacy issued Pharmacy Technician  
21 License Number TCH 18088 to Angelina Ibarra (Respondent). The Pharmacy Technician  
22 License was in full force and effect at all times relevant to the charges brought herein and will  
23 expire on May 31, 2011, unless 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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1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
3 federal and state laws and regulations governing pharmacy, including regulations established by  
4 the board or by any other state or federal regulatory agency.

5 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous  
6 drug or dangerous device except upon the prescription of an authorized prescriber.

7 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any  
8 controlled substance, except that furnished upon a valid prescription/drug order.

9 10. Section 4327 of the Code, in pertinent part, makes it unlawful, while on duty, to sell,  
10 dispense or compound any drug while under the influence of any dangerous drug.

11 11. Health and Safety Code section 11170 provides that no person shall prescribe,  
12 administer, or furnish a controlled substance for himself or herself.

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

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

20 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful to use or  
21 be under the influence of any controlled substance in Schedule II (Health and Safety Code section  
22 11055), subdivision (b) or (c), or any Schedule III-V narcotic drug, except when administered by  
23 or under the direction of an authorized licensee.

24 COST RECOVERY

25 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
26 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
27 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

16. Section 4021 of the Code states:

“‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

17. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use, except veterinary drugs that are labeled as such, 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.

...

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

18. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. The varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

FACTUAL BACKGROUND

19. Between on or about January 8, 2007 and on or about November 4, 2008, Respondent was employed as a pharmacy technician at Anchor Drugs Pharmacy (PHY 41533) in South San Francisco, California. In that position, she had access to controlled substances / dangerous drugs.

20. Beginning no later than October 2008 and continuing through her termination on or about November 4, 2008, on an unknown number of occasions Respondent made use of that access to divert/steal controlled substances and dangerous drugs, including **Hydrocodone with APAP** products, and administer them to herself while on-duty as a pharmacy technician. The exact number of occasions and total quantity of drugs diverted/stolen are not known, but during subsequent interviews Respondent admitted to taking and consuming at least 2-3 tablets in this manner at least 1-2 times per week, for a minimum quantity of at least 10-30 tablets.



1 FIFTH CAUSE FOR DISCIPLINE

2 (Selling, Dispensing, or Compounding While Under the Influence)

3 25. Respondent is subject to disciplinary action under section 4301(j) and/or (o) and  
4 section 4327 of the Code, in that as described in paragraphs 19 to 21 above, Respondent sold,  
5 dispensed or compounded one or more drugs while under the influence of a dangerous drug,  
6 and/or directly or indirectly attempted, conspired, and/or assisted in or abetted such conduct.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Self-Administration/Use of Controlled Substance)

9 26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,  
10 and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as described in  
11 paragraphs 19 to 21 above, self-administered/used, conspired to self-administer/use, and/or  
12 assisted in/abetted self-administration/use, of a controlled substance, without prescription.

13 SEVENTH CAUSE FOR DISCIPLINE

14 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

15 27. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,  
16 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs  
17 19 to 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a  
18 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

19 EIGHTH CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct)

21 28. Respondent is subject to discipline under section 4301 of the Code in that  
22 Respondent, as described in paragraphs 19 to 27 above, engaged in unprofessional conduct.

23  
24 PRAYER

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

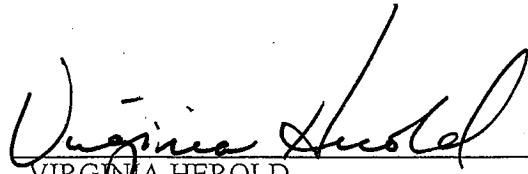
- 27 1. Revoking or suspending Pharmacy Technician License Number TCH 18088, issued  
28 to Angelina Ibarra (Respondent);

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2. Ordering Respondent to pay the Board 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 is deemed necessary and proper.

DATED: 10/27/09



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

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