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

11 In the Matter of the Accusation Against:

Case No. 3418

12 **CORNELIUS CRISTIAN SEULEAN**
13 **11225 Ramway Road**
14 **Riverside, CA 92505**

A C C U S A T I O N

15 **Pharmacy Technician License No. TCH**
16 **22736**

17 Respondent.

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 June 16, 1997, the Board of Pharmacy issued Pharmacy Technician
23 license Number TCH 22736 to Cornelius Cristian Seulean (Respondent). The Pharmacy
24 Technician license was in full force and effect at all times relevant to the charges brought herein
25 and will expire on August 31, 2010, unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300 of the Code states:

- 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, whose
8 default has been entered or whose case has been heard by the board and found guilty,
9 by any of the following methods:

- 10 (1) Suspending judgment.
11 (2) Placing him or her upon probation.
12 (3) Suspending his or her right to practice for a period not exceeding one year.
13 (4) Revoking his or her license.
14 (5) Taking any other action in relation to disciplining him or her as the board in
15 its discretion may deem proper.

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17 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
18 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
19 disciplinary action during the period within which the license may be renewed, restored, reissued
20 or reinstated.

21 **STATUTORY PROVISIONS**

22 6. Section 4301 of the Code states:

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

- 27 ...
28 (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.

- ...
(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.

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1 7. Section 4059, subdivision (a) of the Code states:

2 (a) A person may not furnish any dangerous drug, except upon the prescription of a
3 physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish
4 any dangerous device, except upon the prescription of a physician, dentist, podiatrist,
5 optometrist, or veterinarian.

6 8. Section 4060 of the Code states:

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

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

22 9. Section 11173, subdivision (a) of the California Health and Safety Code states:

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

26 **COST RECOVERY**

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

DRUGS

11. **Alprazolam**, the generic name for Xanax, is a Schedule IV controlled substance
under California Health and Safety Code section 11057(d)(1), and is classified as a dangerous
drug pursuant to Business and Professions Code section 4022. Alprazolam tablets are indicated
for the management of anxiety disorder or the short-term relief of symptoms of anxiety.

1 12. **Tylenol with codeine** (acetaminophen with codeine) is a Schedule III controlled
2 substance as designated by Health and Safety Code section 11056(e)(2).

3 13. **Restoril**, a brand name for temazepam, is a Schedule IV controlled substance as
4 designated by Health and Safety Code section 11057(d)(29), and is a dangerous drug pursuant to
5 Business and Professions Code section 4022. Restoril is a central nervous depressant used to
6 treat insomnia and sleep disorders.

7 14. **Dronabinol**, the generic name of Marinol, is a Schedule III controlled substance as
8 designated by Health and Safety Code section 11056(h), and is a dangerous drug pursuant to
9 Business and Professions Code section 4022.

10 15. **Hydrocodone bitartate/acetaminophen**, also known by the brand names Vicodin,
11 Norco, Zydone, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a narcotic
12 Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4),
13 and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone
14 is used as a narcotic analgesic in the relief of pain.

15 16. **Oxycodone**, also sold under the brand name OxyContin, is a Schedule II controlled
16 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a
17 dangerous drug pursuant to Business and Professions Code section 4022.

18 17. **Diazepam**, sold under the brand name Valium, is a Schedule IV controlled substance
19 as designated by Health and Safety Code Section 11057(d)(9), and is a dangerous drug pursuant
20 to Business and Professions Code section 4022.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct in the Commission of an Act Involving Dishonesty, Fraud, Deceit)**

23 18. Respondent is subject to disciplinary action under Business and Professions Code
24 section 4301, subdivision (f) for committing an act involving moral turpitude, dishonesty, fraud
25 or deceit in that during the period from April, 2007 through August, 2008, while Respondent was
26 employed as a lead pharmacy technician at Loma Linda University Medical Center, Respondent
27 diverted 6,540 tablets of various controlled substances, including diazepam, Norco, Marinol,
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1 temazepam, acetaminophen with codeine, Vicodin, Xanax, and Oxycontin, from the hospital
2 pharmacy's electronic vault/dispensing system. The facts are as follows:

3 19. Between January, 2007 and August, 2008, Loma Linda University Medical Center
4 (the "hospital") kept controlled substances in a central area in the pharmacy. The hospital's
5 controlled substances were kept in an electronic vault in the pharmacy called the McKesson
6 NarcStation ("NarcStation"). The hospital floors have smaller AcuDose machines in which
7 smaller doses of controlled substance were kept. The AcuDose machines were refilled from
8 "daily issues" obtained by the Narcotics Technician from the NarcStation. During this period,
9 Respondent was the Narcotic Technician on weekends. "Daily issues" were done once a day, in
10 the morning. The process for obtaining batch refills of "daily issues" was that the technician
11 began by entering his user identification and his pass code to access the NarcStation and then
12 selected "daily issue" from the screen. A list of all the hospital's AcuDose machines appeared on
13 the screen and the Narcotics Technician selected which AcuDose machine to refill. The
14 NarcStation would then connect to the selected AcuDose machine and downloaded a list of all the
15 controlled medication that needed to be refilled. Once the technician selected "Process" on the
16 screen, the doors of the vault opened to each medication and the technician would remove the
17 entire amount dispensed to refill all of the AcuDose machines. When this process was completed,
18 the NarcStation printed a sheet listing the narcotics and quantities to refill each AcuDose
19 machine. The technician then filled individual Ziplock bags for each AcuDose machine using the
20 narcotics identified and quantities specified on the printed sheet. The bags were labeled and the
21 contents of each Ziplock bag were verified by a pharmacist. The bags were subsequently taken to
22 the respective AcuDose machines to be refilled. This was the "batch refill" procedure.

23 20. On August 4, 2008, L.L., the Narcotic Room Technician, discovered that there was a
24 "daily issue" of Norco removed by Respondent for AcuDose Unit 6100 on August 3, 2008, which
25 was not used to refill the AcuDose machine. L.L. ran a NarcStation transaction report for Norco
26 for the period August 2-August 4, 2008 to determine why this transaction had not been completed
27 properly. The report revealed irregularities: 1) there were two "daily issues" on both August 2
28 and August 3, 2008, when "daily issues" should occur only once each morning for all the

1 AcuDose machines; and, 2) a "zero return" was processed a minute after the second "daily issue"
2 was entered on both days.

3 21. Transactions requiring a "zero return" to complete occur when: 1) narcotics were
4 signed out to an individual patient; 2) narcotics were used to refill units that do not have AcuDose
5 machines; 3) manual issues were obtained to add to an AcuDose machine's inventory; and, 4)
6 when the person delivering the narcotics did not use the batch refill option, as described in
7 paragraph 17. However, there was a "glitch" in this system in that using a zero return after
8 narcotics were withdrawn "closed" or completed the transaction even though the narcotics
9 withdrawn were not delivered to the AcuDose machines. Therefore, no discrepancy in
10 withdrawals and refills to the AcuDose machines appeared in the narcotics count of the
11 NarcStation.

12 22. L.L.'s discovery of the open Norco transaction prompted additional investigation that
13 subsequently revealed that there were multiple withdrawals of Norco, Oxycontin, Vicodin,
14 Tylenol with codeine, Dronabinol, Percocet, Lorazepam and Alprazolam from the NarcStation,
15 followed immediately by zero returns beginning in April, 2007 until August 3, 2008. The only
16 withdrawals which had zero returns were made by Respondent and another employee, S.H.
17 However, time and attendance records showed that S.H. was not clocked in during the
18 transactions made under S.H.'s user identification and pass code. On the other hand, Respondent
19 was the only employee clocked in at the time of every zero return transaction that resulted in
20 diversion.

21 SECOND CAUSE FOR DISCIPLINE

22 (Unprofessional Conduct-Violation of Health and Safety Code section 11173(a))

23 23. Respondent is subject to disciplinary action under Business and Professions Code
24 section 4301, subdivision (j) for violating Health and Safety Code section 11173(a) in that
25 Respondent obtained controlled substances by fraud, deceit, misrepresentation, or subterfuge or
26 by the concealment of a material fact when Respondent used the "zero return" glitch in Loma
27 Linda University Medical Center's NarcStation to obtain 6,540 tablets of various controlled
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1 substances from the hospital pharmacy's electronic vault/dispensing system from April 2007
2 through August 3, 2008, as more fully set forth in paragraphs 16-20, above.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Furnishing a Controlled Substance Without a Prescription)**

5 24. Respondent is subject to disciplinary action under Business and Professions Code
6 section 4301, subdivision (j) for violating Business and Professions Code section 4059(a) in that
7 Respondent obtained controlled substances without a prescription when he used the "zero return"
8 glitch in Loma Linda University Medical Center's NarcStation to obtain 6,540 tablets of various
9 controlled substances from the hospital pharmacy's electronic vault/dispensing system from April
10 2007 through August 3, 2008, as more fully set forth in paragraphs 16-20, above.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct-Possession of a Controlled Substance Without a Prescription)**

13 25. Respondent is subject to disciplinary action under Business and Professions Code
14 section 4301, subdivision (j) for violating Business and Professions Code section 4060 in that
15 Respondent possessed controlled substances without a prescription by using the "zero return"
16 glitch in Loma Linda University Medical Center's NarcStation to obtain 6,540 tablets of various
17 controlled substances from the hospital pharmacy's electronic vault/dispensing system from April
18 2007 through August 3, 2008, as more fully set forth in paragraphs 16-20, above.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Technician Number TCH 22736, issued to
23 Cornelius Cristian Seulean.

24 2. Ordering Cornelius Cristian Seulean to pay the Board of Pharmacy the reasonable
25 costs of the investigation and enforcement of this case, pursuant to Business and Professions
26 Code section 125.3;

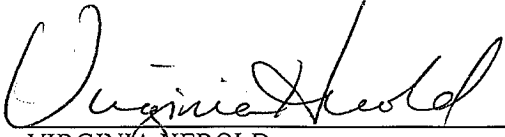
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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/12/09



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

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