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

13 In the Matter of the Accusation Against:
14 **ROBERT ADRIAN CASTENADA**
460 East Sequoia
15 Woodlake, California 93286
16 Pharmacy Technician Registration No. TCH
74030
17 Respondent.

Case No. 3520
ACCUSATION

19 Virginia Herold ("Complainant") alleges:

20 **PARTIES**

- 21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.
23 2. On or about February 10, 2007, the Board of Pharmacy issued Pharmacy
24 Technician Registration Number TCH 74030 to Robert Adrian Castenada (Respondent). The
25 license will expire on September 30, 2010, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Pharmacy (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

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

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

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

7 “(1) Suspending judgment.

8 “(2) Placing him or her upon probation.

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

10 “(4) Revoking his or her license.

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

13 5. Section 4301 of the Code states, in pertinent part:

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

18 ...

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

22 ...

23 “(j) The violation of any of the statutes of this state or of the United States
24 regulating controlled substances and dangerous drugs.

25 (l) The conviction of a crime substantially related to the qualifications, functions,
26 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
28 substances or of a violation of the statutes of this state regulating controlled substances or

1 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
2 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
3 The board may inquire into the circumstances surrounding the commission of the crime, in order
4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
5 or dangerous drugs, to determine if the conviction is an offense substantially related to
6 qualifications, functions, and duties of a licensee under this chapter. A plea of guilty or a
7 conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
8 of this provision. The board may take action when the time for appeal has elapsed, or the
9 judgment of conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4
11 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of
12 not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment.”

14 6. Section 111, subdivision (b) of the Code provides, in pertinent part, that
15 “the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the
16 department, or its suspension, forfeiture, or cancellation by order of the board or by order of a
17 court of law, or its surrender without the written consent of the board, shall not, during any
18 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
19 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
20 provided by law or to enter an order suspending or revoking the license or otherwise taking
21 disciplinary action against the licensee on any such ground”.

22 7. Section 4021 of the Code provides that “‘controlled substance’ means any
23 substance listed in Chapter 2 (commencing with Section 11053 of Division 10 of the Health &
24 Safety Code”.

25 8. Health and Safety Code section 11170 provides that “no one shall
26 prescribe, administer or furnish a controlled substance for himself.”

27 9. Section 4060 of the Code provides, in pertinent part, that no person shall
28 possess any controlled substance, except that furnished to a person upon lawful prescription.

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SECOND CAUSE FOR DISCIPLINE

(Acts of Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

18. Respondent is subject to disciplinary action under section 4301(f) by committing acts involving moral turpitude, dishonesty fraud, deceit, or corruption. In addition to the facts alleged in Paragraph 17, Respondent sold or otherwise distributed some of the aforesaid controlled substances and dangerous drugs to others.

THIRD CAUSE FOR DISCIPLINE

(Violation of Drug Laws)

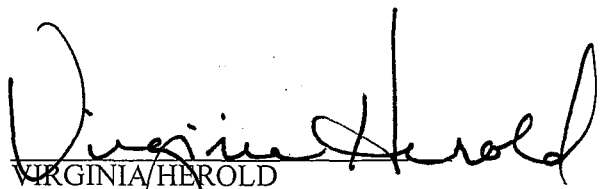
15. Based upon the allegations of Paragraphs 17 and 18, Respondent is subject to disciplinary action under section 4301(j), in conjunction with Section 4060 of the Code and Health and Safety Code sections 11170, by his possession of the aforesaid medications without a lawful prescription, and by his self-administration of Hydrocodone, in violation of California statutes regulating controlled substances and dangerous drugs.

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:

- A. Revoking or suspending Pharmacy Technician Registration Number TCH 74030 issued to Robert Adrian Castenada;
- B. Ordering Robert Adrian Castenada 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;
- C. Taking such other and further action as deemed necessary and proper.

DATED: 1/26/10



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

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