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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 3522

12 **KELSIE TERAN NARDINI**
13 **596 E. Encore Dr.**
Hanford, CA 93230

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 41156**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about January 28, 2002, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 41156 to Kelsie Teran Nardini (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on June 30, 2011, unless renewed.
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JURISDICTION

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

4. Section 4300 of the Code states:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

"(1) Medical or psychiatric evaluation.

"(2) Continuing medical or psychiatric treatment.

"(3) Restriction of type or circumstances of practice.

"(4) Continuing participation in a board-approved rehabilitation program.

"(5) Abstention from the use of alcohol or drugs.

"(6) Random fluid testing for alcohol or drugs.

"(7) Compliance with laws and regulations governing the practice of pharmacy.

1 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
2 certificate of licensure for any violation of the terms and conditions of probation. Upon
3 satisfactory completion of probation, the board shall convert the probationary certificate to a
4 regular certificate, free of conditions.

5 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
6 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
7 shall have all the powers granted therein. The action shall be final, except that the propriety of
8 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
9 Civil Procedure."

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

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

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

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

22 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or
23 administering or offering to sell, furnish, give away, or administer any controlled substance to an
24 addict.

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

1 "(k) The conviction of more than one misdemeanor or any felony involving the use,
2 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
3 combination of those substances.

4 "(l) The conviction of a crime substantially related to the qualifications, functions, and
5 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
6 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
7 substances or of a violation of the statutes of this state regulating controlled substances or
8 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
9 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
10 The board may inquire into the circumstances surrounding the commission of the crime, in order
11 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
12 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
13 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
14 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
15 of this provision. The board may take action when the time for appeal has elapsed, or the
16 judgment of conviction has been affirmed on appeal or when an order granting probation is made
17 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
18 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
19 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
20 indictment.

21 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
22 violation of or conspiring to violate any provision or term of this chapter or of the applicable
23 federal and state laws and regulations governing pharmacy, including regulations established by
24 the board or by any other state or federal regulatory agency.

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

1 7. Section 4060 of the Code states:
2 "No person shall possess any controlled substance, except that furnished to a person upon
3 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
4 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
5 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
6 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
7 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
8 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
9 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
10 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
11 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
12 labeled with the name and address of the supplier or producer.

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

16 8. Business and Professions Code section 4022 provides as follows:
17 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans
18 or animals, and includes the following:
19 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
20 prescription," "Rx only," or words of similar import.
21 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on
22 the order of a _____," "Rx only," or words of similar import, the blank to be filled in with
23 the designation of the practitioner licensed to use or order use of the device.
24 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
25 prescription or furnished pursuant to Section 4006."
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27 9. Section 490 of the Code provides, in pertinent part, that a board may suspend or
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1 revoke a license on the ground that the licensee has been convicted of a crime substantially
2 related to the qualifications, functions, or duties of the business or profession for which the
3 license was issued.

4 DRUGS

5 10. "Phentermine," is a Schedule IV controlled substance as designated by Health and
6 Safety Code section 11057(f)(4).

7 11. "Klonopin" is a dangerous drug as defined by Business and Professions code section
8 4022.

9 12. "Soma" is the Brand name for carisoprodol and is a dangerous drug as defined by
10 Business and Professions Code section 4022.

11 13. "Vicodin" is a dangerous drug as defined by Business and Professions code section
12 4022. It is a compound consisting of 5 mg. hydrocodone bitartrate also known as
13 dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code
14 section 11056(e)(4), and 500 mg. acetaminophen per tablet.

15 FIRST CAUSE FOR DISCIPLINE

16 (Conviction of a Crime)

17 14. Respondent is subject to disciplinary action under section 490 and 4301 subds. (k)
18 and (l) in that she was convicted of a crime substantially related to the practice of a pharmacy
19 technician. The circumstances are as follows:

20 15. On or about June 18, 2007, in *People v. Kelsie Teran Nardini*, Superior Court of
21 California, County of San Luis Obispo, Case No. M000400830, respondent was convicted on her
22 plea of nolo contendere to a violation of Vehicle Code section 23152 (a), for driving while under
23 the influence of alcohol or drugs.

24 16. On or about March 17, 2007, respondent was stopped based upon her erratic driving.
25 Respondent admitted to the California Highway patrol that she had taken one 25 mg. paxil and
26 .5 mg. of Klonopin as well as one Vicodin and one Soma tablet. Respondent was found in
27 possession of an aspirin bottle which contained one tablet of Soma 320 mg, 2 tablets of
28

1 Phertermine 37.5 mg, 3 tablets of Klonopin .5 mg., and 4 tablets of Vicodin. Respondent further
2 admitted that she did not have a prescription for Soma, Vicodin, or Phetermine.

3 SECOND CAUSE FOR DISCIPLINE

4 (Possession of a Controlled Substance)

5 17. Respondent is subject to disciplinary action under sections 4060 and 4301
6 subdivisions (j) and (o) in that she illegally possessed controlled substances. The circumstances
7 are set forth above in paragraph 16, above.

8 THIRD CAUSE FOR DISCIPLINE

9 (Use of Alcohol or Drugs in a Manner Dangerous to Self or Others)

10 18. Respondent is subject to disciplinary action under section 4301 (h) in that she used
11 alcohol or drugs in a manner dangerous to herself or others as set forth in paragraph 16, above.

12 PRAYER

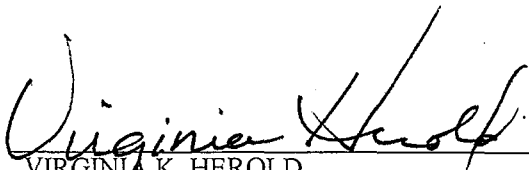
13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Board of Pharmacy issue a decision:

15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 41156,
16 issued to Kelsie Teran Nardini Kelsie Teran Nardini.

17 2. Ordering Kelsie Teran Nardini to pay the Board of Pharmacy the reasonable costs of
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;

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

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22
23 DATED: 4/23/10


24 VIRGINIA K. HEROLD
25 Executive Officer
26 Board of Pharmacy
27 State of California
28 Complainant

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