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

11 In the Matter of the Accusation Against:

Case No. 3555

12 **LORI ANN MAXIE**  
13 **6909 Knowlton Place, #103**  
14 **Los Angeles, CA 90045**  
15 **Pharmacy Technician**  
16 **License No. TCH 21460**

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

Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about February 14, 1997, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician License Number TCH 21460 to Lori A. Maxie, also known as Lori Ann Maxie  
23 (Respondent Maxie). The Pharmacy Technician License was in full force and effect at all times  
24 relevant to the charges brought herein and will expire on May 31, 2010, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6 6. Section 4038 of the Code states:

7 “(a) ‘Pharmacy technician’ means an individual who assists a pharmacist in a pharmacy in  
8 the performance of his or her pharmacy related duties, as specified in Section 4115.”

9 **STATUTORY AND REGULATORY PROVISIONS**

10 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take  
11 action against any holder of a license who is guilty of “unprofessional conduct,” defined to  
12 include, but not be limited to, any of the following:

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

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

18 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
19 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
20 federal and state laws and regulations governing pharmacy, including regulations established by  
21 the board.”

22 8. Section 4324 of the Code states:

23 “(a) Every person who signs the name of another, or of a fictitious person, or falsely  
24 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription  
25 for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment  
26 in the state prison, or by imprisonment in the county jail for not more than one year.

27 “(b) Every person who has in his or her possession any drugs secured by a forged  
28 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the

1 county jail for not more than one year.”

2 9. Section 4060 of the Code states, in pertinent part:

3 “No person shall possess any controlled substance, except that furnished to a person upon  
4 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
5 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
6 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
7 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
8 pharmacist pursuant to either Section 4052.1 or 4052.2.

9 “This section shall not apply to the possession of any controlled substance by a  
10 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
11 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician  
12 assistant, when in stock in containers correctly labeled with the name and address of the supplier  
13 or producer.”

14 10. Section 11173 of the Health and Safety Code states:

15 “(a) No person shall obtain or attempt to obtain controlled substances, or procure or  
16 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
17 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.”

#### 18 COST RECOVERY

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

#### 22 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

23 12. Section 4021 of the Code states:

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

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

27 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use,  
28 except veterinary drugs that are labeled as such, and includes the following:

1           “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
2 prescription,’ ‘Rx only,’ or words of similar import.

3           ...

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

6           14.    OxyContin - a brand name formation of oxycodone hydrochloride, is an opioid  
7 agonist and a Schedule II controlled substance pursuant to Health and Safety Code section  
8 11055(b)(1)(n) and a dangerous drug pursuant to Business and Professions Code section 4022.

9                                    **CHARGES AND ALLEGATIONS**

10           15.    On or about October 14, 2008, Respondent Maxie, who was employed as a  
11 pharmacy technician at Longs Drugs Store 430<sup>1</sup> (Longs Drugs), located at 8900 Sepulveda  
12 Westway, Los Angeles, California 90045, presented a forged prescription for ninety tablets of  
13 OxyContin 80 milligrams written in the name of her ex-significant other Latron White. The  
14 pharmacist-in-charge Andre Bao Tuong Nguyen (Nguyen) filled the prescription and Respondent  
15 Maxie purchased the OxyContin from Longs Drugs. Several days later, as a pharmacist was  
16 preparing to dispense OxyContin 80 mg to another patient, he came upon the OxyContin  
17 prescription earlier dispensed to Latron White by another pharmacist and believed it prudent to  
18 verify its validity.

19           16.    Doctor Tahira Stewart (Stewart), the prescribing doctor listed on the prescription  
20 presented by Respondent Maxie, confirmed the following: a) neither Respondent Maxie nor  
21 Latron White were ever patients of hers; b) the prescription was written during the time Stewart  
22 was on maternity leave; and c) her prescription pad used to write the prescription was stolen. The  
23 prescription was written on a prescription pad from La Vida Multi Specialty Medical Centers,  
24 located at 4644 Lincoln Blvd., Marina Del Rey, CA 90292. It was written to a Latron White and  
25 included the following address “3420 So. Budlong.” No city, state or zip codes were listed on the  
26 handwritten prescription.

27                                 <sup>1</sup> Long Drugs underwent a change of ownership and became CVS Drug Store Number  
28 9985 (CVS) on or about December 9, 2008.

1           17.    After Respondent Maxie was interviewed by Longs Drugs about her purchase of  
2 OxyContin with a forged prescription, Respondent Maxie quit her job at Longs Drugs.

3   **FIRST CAUSE FOR DISCIPLINE**

4   **As to Respondent Maxie**

5   **(Unprofessional Conduct/ Act Involving Fraud, Deceit, Misrepresentation, Subterfuge or  
6 Concealment of Material Fact)**

7           18.    Respondent Maxie has subjected her license to disciplinary action under Code section  
8 4301, subdivisions (j) and/or (o), and/or Health and Safety Code section 11173, subdivision (a),  
9 in that Respondent obtained controlled substances by fraud, deceit, misrepresentation, subterfuge  
10 and/or the concealment of a material fact. The circumstances are that on or about October 14,  
11 2008, while employed as a pharmacy technician at Longs Drugs in Los Angeles, California,  
12 Respondent Maxie utilized a forged prescription to remove ninety tablets of OxyContin 80  
13 milligrams from the pharmacy by concealment, fraud and deceit in violation of law. Complainant  
14 refers to and incorporates all the allegations set forth in paragraphs 15 through 17, inclusive, as  
15 though set forth fully.

16   **SECOND CAUSE FOR DISCIPLINE**

17   **As to Respondent Maxie**

18   **(Unprofessional Conduct/ Act Involving Moral Turpitude, Dishonesty, Fraud or  
19 Corruption)**

20           19.    Respondent Maxie has subjected her license to disciplinary action under Code section  
21 4301, subdivision (f), in that Respondent engaged in an act involving moral turpitude, dishonesty,  
22 fraud, deceit, and/or corruption. The circumstances are that on or about October 14, 2008, while  
23 employed as a pharmacy technician at Longs Drugs in Los Angeles, California, Respondent  
24 Maxie utilized a forged prescription to remove ninety tablets of OxyContin 80 milligrams from  
25 the pharmacy by concealment, fraud and deceit in violation of law. Complainant refers to and  
26 incorporates all the allegations set forth in paragraphs 15 through 18, inclusive, as though set  
27 forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **As to Respondent Maxie**

3 **(Unprofessional Conduct/Possession of a Controlled Substance Without a Prescription)**

4 20. Respondent Maxie has subjected her license to disciplinary action under Code  
5 sections 4301, subdivisions (j) and/or (o), and/or 4060, for possessing a controlled substance  
6 without a prescription. Complainant refers to and incorporates all the allegations set forth in  
7 paragraphs 15 through 19 as though set forth fully.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **As to Respondent Maxie**

10 **(Unprofessional Conduct/Possession of a Drugs Obtained by Forged Prescription)**

11 21. Respondent Maxie has subjected her license to disciplinary action under Code  
12 sections 4301, subdivisions (j) and/or (o), and/or 4324 subdivisions (a) and (b), for possessing a  
13 controlled substance secured with a forged prescription and for passing a forged prescription.  
14 Complainant refers to and incorporates all the allegations set forth in paragraphs 15 through 20 as  
15 though set forth fully.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Technician License Number TCH 21460, issued  
20 to Lori Ann Maxie;

21 2. Ordering Lori Ann Maxie to pay the Board of Pharmacy the reasonable costs of the  
22 investigation and enforcement of this case, pursuant to Business and Professions Code section  
23 125.3; and

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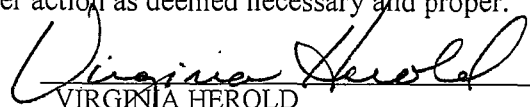
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3. Taking such other and further action as deemed necessary and proper.

DATED:

5/28/10



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

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