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

11 Case No. 3598

12 In the Matter of the Accusation Against:

13 YVONNE M. CANCHOLA
423 S. Calle El Segundo, #303
14 Palm Springs, CA 92262

ACCUSATION

15 Pharmacy Technician Registration No. TCH 51226

16 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 (Board), Department of Consumer Affairs.

21 2. On or about October 9, 2003, the Board issued Pharmacy Technician Registration
22 Number TCH 51226 to Yvonne M. Canchola (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on June 30, 2011, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4300 of the Code states in relevant part:

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

3 "..."

4 5. Section 118, subdivision (b), of the Code states:

5 "The suspension, expiration, or forfeiture by operation of law of a license issued by a board
6 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
7 of a court of law, or its surrender without the written consent of the board, shall not, during any
8 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
9 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
10 provided by law or to enter an order suspending or revoking the license or otherwise taking
11 disciplinary action against the licensee on any such ground."

12 **STATUTORY AND REGULATORY AUTHORITIES**

13 6. Section 4022 of the Code states:

14 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
15 humans or animals, and includes the following:

16 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
17 prescription," "Rx only," or words of similar import.

18 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
19 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
20 in with the designation of the practitioner licensed to use or order use of the device.

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

23 7. Section 4059 of the Code states in relevant part:

24 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
25 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
26 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
27 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
28 3640.7.

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" . . . "

8. Section 4060 of the Code states in relevant part:

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

9. Section 4301 of the Code states:

"The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the following:

". . . .

"(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.

". . . .

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

". . . ."

10. Code section 4324 states in relevant part:

"(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any

1 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the
2 state prison, or by imprisonment in the county jail for not more than one year.

3 "...."

4 11. Health and Safety Code section 11170 states in relevant part:

5 "No person shall prescribe, administer, or furnish a controlled substance for himself."

6 12. Health and Safety Code section 11173 states:

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

10 "(b) No person shall make a false statement in any prescription, order, report, or record,
11 required by this division.

12 "(c) No person shall, for the purpose of obtaining controlled substances, falsely assume the
13 title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist,
14 veterinarian, registered nurse, physician's assistant, or other authorized person.

15 "(d) No person shall affix any false or forged label to a package or receptacle containing
16 controlled substances."

17 COST RECOVERY

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

22 DRUGS

23 14. Hydrocodone bitartate/acetaminophen, also known as Hydrocodone/apap, also known
24 by the brand names Vicodin, Norco, Zydone, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and
25 Anexsia, is a narcotic Schedule III controlled substance as designated by Health and Safety Code
26 section 11056(e)(4), and is a dangerous drug pursuant to Business and Professions Code section
27 4022. Hydrocodone is used as a narcotic analgesic in the relief of pain.

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1 15. Zolpidem tartrate, sold under the brand name Ambien, is a Schedule IV controlled
2 substance as designated by Health and Safety Code section 11507(d)(32), and is a dangerous drug
3 pursuant to Business & Professions Code section 4022.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct - Committing Acts Involving**
6 **Moral Turpitude, Dishonesty, Fraud or Deceit)**

7 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
8 for obtaining controlled substances or a prescription for controlled substances by fraud, deceit or
9 misrepresentation. The circumstances are as follows:

10 17. Between February 24, 2009 and June 16, 2009, while working at multiple Walgreens
11 Pharmacies in Palm Springs, California, Respondent obtained 450 tablets of Hydrocodone/apap
12 using unauthorized prescriptions on March 19, 2009 (Prescription No. 74373); April 7, 2009
13 (Prescription No. 102909); April 12, 2009 (Prescription No. 150893); April 19, 2009
14 (Prescription No. 952332); May 3, 2009 (Prescription No. 150893); May 6, 2009 (Prescription
15 No. 154138), June 16, 2009 (Prescription No. 85028), and 40 tablets of Zolpidem using
16 unauthorized prescriptions on April 20, 2009 (Prescription No. 104829) and June 16, 2009
17 (Prescription No. 85081) by transferring her prescriptions for Hydrocodone/apap 5-500 mg #60
18 and #30, and Zolpidem 10mg #20, between stores and by altering the number of refills on the
19 prescriptions.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unlawful Furnishing and Possession of Controlled Substance)**

22 18. Respondent is subject to disciplinary action for unprofessional conduct under section
23 4301, subdivision (o), for for violation of the Pharmacy Act by forging prescriptions, furnishing
24 controlled substances to herself, and unlawfully possessing controlled substances in violation of
25 Code sections 4059 and 4060, as set forth in paragraph 17 above, which is incorporated here by
26 this reference.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Unlawful Self-Prescribing of Controlled Substances)**

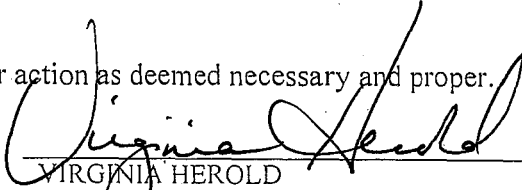
3 19. Respondent is subject to disciplinary action for unprofessional conduct under section
4 4301, subdivision (j), for violation of the Pharmacy Act by unlawfully self-prescribing controlled
5 substances in violation of Health and Safety Code sections 11170 and 11173 as is set forth in
6 paragraph 17 above, which is incorporated here by this reference.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration Number TCH 51226,
11 issued to Yvonne M. Canchola;
- 12 2. Ordering Yvonne M. Canchola to pay the Board of Pharmacy the reasonable costs of
13 the investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: 7/2/10


17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant

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