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

11  
12 Case No. 3690

13 In the Matter of the Accusation Against:

14 ANTHONY J. KAMEL  
6 Castlebar  
Irvine, CA 92615

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

15 Pharmacy Technician Registration No. TCH  
62157

16 Respondent.  
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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about April 27, 2005, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 62157 to Anthony J. Kamel (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on February 28, 2011, 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 118, subdivision (b), of the Code provides that the suspension, expiration,  
6 surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
7 disciplinary action during the period within which the license may be renewed, restored, reissued  
8 or reinstated.

9 5. Section 4300, subdivision (a) of the Code states "Every license issued may be  
10 suspended or revoked."

11 STATUTORY PROVISIONS

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to  
14 evaluate the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation  
18 furnished by the applicant or licensee.

19 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
20 revoke a license on the ground that the licensee has been convicted of a crime substantially  
21 related to the qualifications, functions, or duties of the business or profession for which the  
22 license was issued.

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a  
25 board within the department pursuant to law to deny an application for a license or  
26 to suspend or revoke a license or otherwise take disciplinary action against a  
27 person who holds a license, upon the ground that the applicant or the licensee has  
28 been convicted of a crime substantially related to the qualifications, functions, and  
duties of the licensee in question, the record of conviction of the crime shall be  
conclusive evidence of the fact that the conviction occurred, but only of that fact,

1 and the board may inquire into the circumstances surrounding the commission of  
2 the crime in order to fix the degree of discipline or to determine if the conviction is  
3 substantially related to the qualifications, functions, and duties of the licensee in  
4 question.

5 As used in this section, "license" includes "certificate," "permit,"  
6 "authority," and "registration."

7 9. Section 4060 of the Code states:

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

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

24 10. Section 4301 of the Code states:

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

.....

(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.

.....

(l) The conviction of a crime substantially related to the qualifications,  
functions, and duties of a licensee under this chapter. The record of conviction of  
a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
States Code regulating controlled substances or of a violation of the statutes of this  
state regulating controlled substances or dangerous drugs shall be conclusive  
evidence of unprofessional conduct. In all other cases, the record of conviction  
shall be conclusive evidence only of the fact that the conviction occurred. The

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

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14  
15 11. Health and Safety Code section 11350 provides that every person who possesses a  
16 controlled substance, unless upon the prescription of a physician, dentist, podiatrist, or  
17 veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state  
18 prison.

### 19 REGULATORY PROVISIONS

20  
21 12. California Code of Regulations, title 16, section 1770, states:

22 For the purpose of denial, suspension, or revocation of a personal or facility  
23 license pursuant to Division 1.5 (commencing with Section 475) of the Business  
24 and Professions Code, a crime or act shall be considered substantially related to  
25 the qualifications, functions or duties of a licensee or registrant if to a substantial  
26 degree it evidences present or potential unfitness of a licensee or registrant to  
27 perform the functions authorized by his license or registration in a manner  
28 consistent with the public health, safety, or welfare.

1 (b) When considering the suspension or revocation of a facility or a  
2 personal license on the ground that the licensee or the registrant has been  
3 convicted of a crime, the board, in evaluating the rehabilitation of such person and  
4 his present eligibility for a license will consider the following criteria:

- 5 (1) Nature and severity of the act(s) or offense(s).
- 6 (2) Total criminal record.
- 7 (3) The time that has elapsed since commission of the act(s) or offense(s).

1 (4) Whether the licensee has complied with all terms of parole, probation,  
2 restitution or any other sanctions lawfully imposed against the licensee.

3 (5) Evidence, if any, of rehabilitation submitted by the licensee.

4 **COST RECOVERY**

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

9 **DRUGS**

10 15. Oxycontin, the controlled-release oral formulation of Oxycodone, is a Schedule II  
11 controlled substance as designated by Health and Safety Code section 11055, subdivision  
12 (b)(1)(N), and is a dangerous drug pursuant to Business and Professions Code section 4022.

13 16. Hydrocodone is a Schedule II controlled substance as designated by Health and  
14 Safety Code section 11055(b)(1)(J), and is a dangerous drug pursuant to Business and Professions  
15 Code section 4022. Hydrocodone is a narcotic pain reliever.

16 17. Diazepam, is a Schedule IV controlled substance as designated by Health and Safety  
17 Code section 11057, and is a dangerous drug pursuant to Business and Professions Code section  
18 4022.

19 **FIRST CAUSE FOR DISCIPLINE**

20 (October 2, 2009 Conviction for Possession of Oxycontin on December 17, 2008)

21 18. Respondent is subject to disciplinary action under section under sections 490 and  
22 4301(l) of the Code in that he was convicted of crime that is substantially related to the  
23 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

24 a. On or about April 7, 2009, in a six count felony complaint, in a criminal  
25 proceeding entitled *People of the State of California v. Anthony Joe Kamel*, in Orange County  
26 Superior Court case number 09HF0612, Respondent was charged with 3 counts of violation of  
27 Health and Safety Code section 11351, possession for sale of a controlled substance, 2 counts of  
28 violation of Health and Safety Code section 11352, sale or transportation of a controlled

1 substance, and 1 count of violation of Health and Safety Code section 11378, possession for sale  
2 of a controlled substance. On or about October 2, 2009, Respondent pled guilty to an added  
3 count 7, violation of Health and Safety Code section 11350, possession of controlled substances  
4 or narcotics and the other counts were dismissed. In his guilty plea, Respondent admitted that he  
5 “willfully and unlawfully possessed a useable amount of Oxycontin.”

6 b. The circumstances that led to the conviction are that on or about December 17,  
7 2008, officers from the Orange County Sheriff’s Department narcotic detail served a search  
8 warrant on Respondent’s business, vehicles, residence, and person. Upon serving the search  
9 warrant, a Police Investigator asked Respondent if there were any illegal narcotics inside his  
10 business to which Respondent replied, “no.” When asked if there were any weapons inside the  
11 business, Respondent stated, “I don’t think so.”

12 c. Officers searched the business and discovered 1 loaded shotgun, 6 boxes of  
13 ammunition, 10 shotgun shells, currency, approximately 10 empty new pill bottles, 1 page of  
14 labels for various pills, and the following drugs, all of which are either controlled substances or  
15 dangerous drugs: 2 bottles containing sixty Aggrenox capsules, 3 bottles of Alubterol, 2 bottles of  
16 Hydrocodone (one bottle with approximately 500 pills and the other with approximately 400  
17 pills), 1 bottle containing approximately 900 Carisprodol pills, 1 sealed bottle containing 1000  
18 Diazepam pills, 1 bottle with approximately 18 Subutex pills, 1 bottle containing 16 Adderal pills,  
19 1 bottle containing 2 Hydrocodone pills, 1 bottle containing 5 Oxycontin pills. Upon searching  
20 the first vehicle, the investigators discovered 1 bottle containing 88 Oxycontin pills, 2 bottles  
21 containing 500 Hydrocodone pills each, 1 empty bottle of Oxycontin, 4 pay/owe sheets, and  
22 currency. The search of the second vehicle revealed 1 bottle containing Oxycontin pills. Upon  
23 searching Respondent’s residence, \$5,455 in cash was stashed in various locations.

24 d. On or about January 8, 2010, Respondent was sentenced to serve 45 days in  
25 city jail or pay-to-stay jail, required to pay all fines, fees and restitution, and three years of  
26 probation.  
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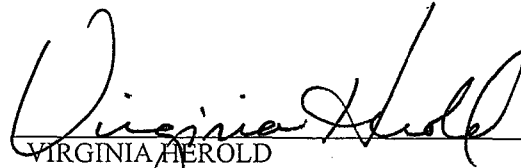
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2. Ordering Anthony J. Kamel to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED:

5/10/10



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

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