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

12 In the Matter of the Accusation Against:

Case No. 3844

13 **TREVOR SUNDQUIST**
14 **1550 Chabot Court**
15 **Eureka, CA 95503**
16 **Pharmacy Technician License No. 53676,**

A C C U S A T I O N

17 Respondent.

18 Complainant alleges:

19 PARTIES

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

21 2. On or about January 13, 2004, the Board of Pharmacy issued Pharmacy Technician
22 License Number 53676 to Trevor Sundquist (Respondent). The Pharmacy Technician License
23 was in full force and effect at all times relevant to the charges alleged in this Accusation and will
24 expire on June 30, 2011, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, 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.

...

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

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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STATUTORY PROVISIONS/REGULATIONS

6. 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:

"(a) Gross immorality.

...

"(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.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

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

...

"(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.

"(p) Actions or conduct that would have warranted denial of a license.

"(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

1 "(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section
2 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should
3 have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a)
4 of Section 256b of Title 42 of the United States Code."

5 7. Section 4324 of the Code states:

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

10 "(b) Every person who has in his or her possession any drugs secured by a forged
11 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
12 county jail for not more than one year."

13 8. Section 480 of the Code states, in relevant part:

14 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
15 one of the following:

16 ...

17 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
18 benefit himself or herself or another, or substantially injure another.

19 "(3) Done any act which if done be a licentiate of the business or profession in question,
20 would be grounds for suspension or revocation or license."

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

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

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1 10. Section 4022 of the Code states:

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

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

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

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

11 DRUGS

12 11. Hydrocodone is a Schedule III controlled substance as designated by Health and
13 Safety Code section 11056(e)(4), and a dangerous drug as designated by Business and
14 Professions Code section 4022.

15 COST RECOVERY

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

20 **FIRST CAUSE FOR DISCIPLINE** 21 **(Unlawful Possession of Drugs Obtained Through Forged Prescriptions)** 22 **(B & P § 4324(a))**

23 13. Respondent has subjected his Pharmacy Technician License to disciplinary action
24 under Code section 4324, subdivision (a), in that he made and passed as genuine, unauthorized
25 prescription documents and diverted approximately 8880 dosage units of Hydrocodone¹. The
26 circumstances are as follows:

27
28 ¹ All the fraudulent prescriptions were for Hydrocodone/APAP 10 mg/325 mg.

1 14. From approximately April 5, 2009, to approximately November 19, 2009,
2 Respondent was creating fraudulent prescriptions in order to steal doses of Hydrocodone from his
3 employer Walgreens No. 4681 (Walgreens) in Eureka, California. Specifically, Respondent
4 would use legitimate hard copy prescriptions for patients which were already scanned in the
5 system, filled, and sold to the correct patient. However, Respondent would then create a profile
6 for a fictitious patient, often done by altering some of the letters in the legitimate patient's name,
7 and would rescan the prescription under the fictitious patient's name. The fictitious prescriptions
8 were then filled and sold to unknown people through Walgreen's drive-thru. Respondent's
9 initials were attached to the new scans and profiles for the fictitious patients. Respondent forged
10 approximately 28 prescription documents using various fictitious names and diverted
11 approximately 8880 dosages of Hydrocodone.

12 15. Walgreens conducted an investigation after receiving a fax from a physician's office
13 denying a prescription refill request for a "Sarah Wilson" indicating that they did not have a
14 patient by that name. The investigation revealed that this fraudulent practice—explained in
15 paragraph 14--occurred using 12 different names. The Pharmacist-in-Charge who was also the
16 Pharmacy Manager at Walgreens suspected that the fraudulent prescriptions were reviewed and
17 verified by Respondent by impermissibly using the pharmacist's computer while the pharmacist
18 was away from the computer assisting a patient or involved in other tasks. The fraudulent
19 prescriptions appear to have begun when the Pharmacy Manager was out on maternity leave and
20 there were several "relief" pharmacists on duty who were not familiar with Walgreens' patients.
21 Respondent would often use the computer saying he was "check[ing] the work queue" when a
22 pharmacist stepped away from the computer. Further, Respondent had access to certain areas of
23 the pharmacy in order to store away old prescription hard copies into storage boxes and re-file
24 current prescription hard copies.

25 16. Walgreens' investigation revealed that some of the re-scanned prescriptions had
26 additional handwriting, believed to be Respondent's handwriting, on them presumably to
27 convince the pharmacist that the prescription was from a legitimate patient profile.

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SECOND CAUSE FOR DISCIPLINE
(Unprofessional Conduct--Acts of Fraud and Dishonesty)
(B & P § 4301(f))

17. Respondent has subjected his Pharmacy Technician License to disciplinary action under Code Section 4301, subdivision (f), in that he acted dishonestly and with deceit when he stole approximately 8880 dosages of Hydrocodone by creating fraudulent prescriptions while working as a pharmacy technician at Walgreens in Eureka, California. The circumstances surrounding the deceit and fraud are explained in paragraphs 13-16, above.

THIRD CAUSE FOR DISCIPLINE
(Unprofessional Conduct-Controlled Substances and Dangerous Drug Violations)
(B & P § 4301(j))

18. Respondent has subjected his Pharmacy Technician License to disciplinary action under Code section 4301, subdivision (j), in that he dispensed controlled substances (Hydrocodone) without a valid prescription. Such actions violate California Statutes relating to controlled substances and dangerous drugs, including, but not limited to, Health and Safety Code 11173. The circumstances are explained in paragraphs 13-16, above.

FOURTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct-Falsely Signing Documents)
(B & P § 4301(g))

19. Respondent has subjected his Pharmacy Technician License to disciplinary action under Code section 4301, subdivision (g), in that he knowingly created false prescriptions and patient profiles in order to divert Hydrocodone, a controlled substance. The circumstances are explained in paragraphs 13-16, above.

FIFTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct--Violated State Laws)
(B & P § 4301(o))

20. Respondent has subjected his Pharmacy Technician License to disciplinary action under Code section 4301, subdivision (o), in that violated numerous state laws and regulations governing the pharmacy profession when he diverted approximately 8880 dosages of Hydrocodone by using unauthorized and false prescriptions while working as a pharmacy technician at Walgreens. The circumstances are explained in paragraphs 13-16, above.

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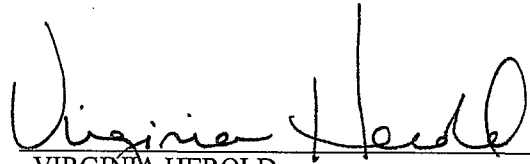
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License Number 53676, issued to Trevor Sundquist;
2. Ordering Trevor Sundquist 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: 2/28/11



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

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