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9		RE THE PHARMACY
10	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
11		
12	In the Matter of the Accusation Against:	Case No. 3899
13	KIKILYNN JUMPER	ACCUSATION
14	84 Minot Avenue Chula Vista, CA 91940	ACCUSATION
15	Pharmacy Technician Registration	
15 16	No. TCH 68444	
	Pharmacy Technician Registration No. TCH 68444 Respondent.	
16	No. TCH 68444	
16 17	No. TCH 68444	
16 17 18	No. TCH 68444 Respondent. Complainant alleges:	TIES
16 17 18 19	No. TCH 68444 Respondent. Complainant alleges: PAR	TIES s this Accusation solely in her official capacity
16 17 18 19 20	No. TCH 68444 Respondent. Complainant alleges: PAR	s this Accusation solely in her official capacity
16 17 18 19 20 21	No. TCH 68444 Respondent. Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharmac	s this Accusation solely in her official capacity
16 17 18 19 20 21 22	No. TCH 68444 Respondent. Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharmac	es this Accusation solely in her official capacity cy, Department of Consumer Affairs. rd of Pharmacy issued Pharmacy Technician
16 17 18 19 20 21 22 23	No. TCH 68444 Respondent. Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharmad 2. On or about April 18, 2006, the Board	es this Accusation solely in her official capacity cy, Department of Consumer Affairs. rd of Pharmacy issued Pharmacy Technician mper (Respondent). The Pharmacy Technician
16 17 18 19 20 21 22 23 24	No. TCH 68444 Respondent. Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharmac 2. On or about April 18, 2006, the Boar Registration Number TCH 68444 to Kikilynn Ju	es this Accusation solely in her official capacity cy, Department of Consumer Affairs. rd of Pharmacy issued Pharmacy Technician mper (Respondent). The Pharmacy Technician
 16 17 18 19 20 21 22 23 24 25 	No. TCH 68444 Respondent. Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharmad 2. On or about April 18, 2006, the Boar Registration Number TCH 68444 to Kikilynn Jur Registration was in full force and effect at all tim	es this Accusation solely in her official capacity cy, Department of Consumer Affairs. rd of Pharmacy issued Pharmacy Technician mper (Respondent). The Pharmacy Technician
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16 17 18 19 20 21 22 23 24 25 26 	No. TCH 68444 Respondent. Complainant alleges: PAR 1. Virginia Herold (Complainant) bring as the Executive Officer of the Board of Pharmad 2. On or about April 18, 2006, the Boar Registration Number TCH 68444 to Kikilynn Ju Registration was in full force and effect at all tim will expire on May 31, 2012, unless renewed. ////	es this Accusation solely in her official capacity cy, Department of Consumer Affairs. rd of Pharmacy issued Pharmacy Technician mper (Respondent). The Pharmacy Technician

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 (Code) unless otherwise indicated.
5	4. Section 4300, subdivision (a) of the Code states "Every license issued may be
6	suspended or revoked."
7	5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8	surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9	disciplinary action during the period within which the license may be renewed, restored, reissued
10	or reinstated.
11	STATUTORY PROVISIONS
12	6. Section 4301 of the Code states:
13	The board shall take action against any holder of a license who is guilty of
14	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:
15	not innited to, any of the following:
16	(A The commission of any estimation more literation 1. 1. 1.
17	(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 false or otherwise.
18	licensee or otherwise, and whether the act is a felony or misdemeanor or not.
19	(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.
20	(h) The administering to oneself, of any controlled substance, or the use of any
21	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
22	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.
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24	(j) The violation of any of the statutes of this state, or any other state, or of the
25	United States regulating controlled substances and dangerous drugs.
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3	including regulations established by the board or by any other state or federal regulatory agency.
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5	7. Section 4022 of the Code states
6.	"Dangerous drug" or "dangerous device" means any drug or device unsafe for
7	self-use in humans or animals, and includes the following:
8	(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
9	(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a," "Rx only," or words of similar
10	import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
11	(c) Any other drug or device that by federal or state law can be lawfully
12	dispensed only on prescription or furnished pursuant to Section 4006.
13	8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
14	dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
15	veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
16	dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
17	veterinarian, or naturopathic doctor pursuant to Section 3640.7.
18	9. Section 4060 of the Code states:
19	No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist,
20	veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
21	to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
22	pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
23	shall not apply to the possession of any controlled substance by a manufacturer.
24	wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant when in stock in containers associated labeled with the second
25	physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.
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1	10. Health and Safety Code section 11170 states that "No person shall prescribe,	
2	administer, or furnish a controlled substance for himself."	
3	11. Health and Safety Code section 11173 states:	
4	(a) No person shall obtain or attempt to obtain controlled substances, or procure	
5	or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.	
6		
7	(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.	
8	••••	Ì
9	12. United States Code, title 21, section 843 states, in pertinent part:	
10	(a) It shall be unlawful for any person knowingly or intentionally –	
11	•	
12	(3) to acquire or obtain possession of a controlled substance by	
13	misrepresentation, fraud, forgery, deception, or subterfuge;	
14		
15	COST RECOVERY	
16	13. Section 125.3 of the Code provides, in pertinent 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	DRUGS	
21	14. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance under	
22	California Health and Safety Code section 11057, subdivision (d)(1), and is classified as a	
23	dangerous drug pursuant to Business and Professions Code section 4022.	
24	15. Hydrocodone/APAP, sold under the brand names Vicodin, Norco, Lorcet, et al., is a	
25	Schedule III controlled substance as designated by Health and Safety Code section 11056,	
26	subdivision (e)(4), and is classified as a dangerous drug pursuant to Business and Professions	
27	Code section 4022.	
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16. Promethazine with codeine syrup, sold under the brand name Phenergan, is a
Schedule V controlled substance as designated by Health and Safety Code section 11058,
subdivision (c)(1), and is classified as a dangerous drug pursuant to Business and Professions
Code section 4022.

FACTS

17. Respondent was employed as a pharmacy assistant¹ by Kaiser Permanente Pharmacy (pharmacy) in Bonita from March 20, 2006, until she was terminated on April 22, 2009.

On or about March 12, 2009, Respondent's coworkers observed Respondent leave her 8 18. assigned area at the pharmacy's prescription receiving window and give a filled prescription to a 9 man waiting by the door at the other end of the pharmacy. Respondent then discarded some 10 paperwork into a trash can. A coworker retrieved the paperwork and checked to see if there was a 11 transaction history and could not find any documentation that it had been sold. The prescription 12 Respondent gave to the man was for 200 tablets of Hydrocodone/APAP 10-325. The coworkers 13 alerted pharmacy management and an internal investigation was initiated by the Kaiser Anti-14 Fraud Team. 15

16 19. As a result of their initial findings, the Anti-Fraud Team set up video surveillance of
17 the pharmacy. On March 26, 2009, the Anti-Fraud Team reviewed the video surveillance of the
18 pharmacy and visual evidence of Respondent taking narcotics from the pharmacy.

Using data mining, the investigation further disclosed that Respondent had managed 19 20. 20 to manipulate the pharmacy's computer system in several complex ways in order to fraudulently obtain controlled substances. In many instances, Respondent conducted the fraud using the 21 22 computer log-in identity of another pharmacy technician. A prescription would be ordered by Respondent for a patient with a Kaiser account, using either her own or another's identity code. 23 (A technician's log-in code would stay in the computer system until the technician logged off.) 24 25 Although the prescription required an approval by a pharmacist before it could be dispensed, 26 there were multiple instances when Respondent continued the transaction without proper 27

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¹ Respondent was employed by Kaiser Permanente as a pharmacy assistant because there were no openings for pharmacy technicians at the time she was hired.

authority. The prescriptions would be filled, then Respondent would cancel, delete, or "un-sell"
the transaction using a variety of computer input methods, pick up the filled prescription, and
either give the prescription to an accomplice, or remove it from the pharmacy herself. In some
instances, the prescriptions were mailed. This method would allow Respondent to fraudulently
refill the same prescription numerous times. Computer records indicate that Respondent's theft
of controlled substances from the pharmacy started in February 2008.

On April 3, 2009, a meeting was held with Respondent, her union representative, and 7 21. members of Kaiser's security and management teams. She was confronted with two prescriptions 8 she had requested to be filled and returned to stock, but were actually diverted by Respondent. A 9 search of Respondent revealed a list of patients and their medical record numbers in her lab coat 10 pocket that matched patients who had been victims of her prescription fraud. After denying the 11 allegations multiple times. Respondent made a written statement confessing to the manipulation 12 of "about six" patients' records, and that her theft of controlled substances from the pharmacy 13 was for her own personal use. Respondent told investigators that she targeted patients based on 14 the type of medication they had been prescribed. Further, Respondent had placed multiple orders 15 in the name of her husband, who was serving on active duty with the U.S. Navy at the time. 16 Respondent was placed on suspension pending termination (on April 22, 2009). 17

22. On April 6, 2009, the Anti-Fraud Team completed its audit and provided both the
Drug Enforcement Agency and the Board with their estimation of the narcotics stolen, the losses
of narcotics, as well as the circumstances of the loss starting in February 15, 2008 until March 25,
2009, as follows²:

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² The "in and out analysis" of the pharmacy's inventory conducted by the Board's inspector in Investigation Report No. CI 2008-39749, using data reported by the Anti-Fraud Team, shows the losses at a higher amount than indicated in Kaiser's report submitted to the DEA and the Pharmacy Board on April 6, 2009. Kaiser investigators based their numbers on an inventory taken on March 16, 2008, the inventory on April 26, 2009, and the amount of controlled substances ordered and sold between those two dates. They did not take into consideration the drugs that were "on the shelf" ready to be dispensed during that timeframe when making their calculations. This Accusation references the calculations provided by the Board inspector.

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1	Drug	Kaiser Amount <u>Unaccounted For</u>	Board Amount <u>Unaccounted For</u>
2	Hydrocodone/APAP 5-325	580 tablets	1,700 tablets
3	Hydrocodone/APAP 5-500	520 tablets	1,210 tablets
4	Hydrocodone/APAP 7.5-750	0	100 tablets
5	Promethazine w/Codeine Syrup	15,600 ml	28,320 ml
6	Alprazolam 0.25 mg	180 tablets	900 tablets
7	Lunesta (Eszopiclone) 3 mg	30 tablets	0
8	FIRST CAUSE FOR DISCIPLINE		INE
9	(Unprofessional Conduct - M	oral Turpitude, Dishonesty,	Fraud, Deceit & Corruption)
10	23. Respondent is subject	to disciplinary action under s	ection 4301, subdivision (f) of the
11	Code in that on or about and between February 2008 and March 25, 2009, Respondent stole		
12	controlled substances and dangerous drugs from her employer using fraud, deceit, and dishonesty,		
13	as detailed in paragraphs 17-22, above. Such conduct is substantially related to the qualifications,		
14	duties, and functions of a pharmacy technician.		
15	SECOND CAUSE FOR DISCIPLINE		
16	(Unprofessional Conduct – Forgery)		
17	24. Respondent is subject	to disciplinary action under se	ection 4301, subdivision (g) of the
18	Code in that on or about and betw	een February 2008 and March	25, 2009, Respondent knowingly
19	made and signed false documents, and/or made computer entries to fraudulently obtain controlled		
20	substances from her employer, as detailed in paragraphs 17-22, above.		above.
21	THIRD CAUSE FOR DISCIPLINE		INE
22	(Unprofessional Conduct – Illegal Use of Controlled Substances)		rolled Substances)
23	25. Respondent is subject	to disciplinary action under s	ection 4301, subdivision (h) of the
24	Code in that on or about and betw	een February 2008 and March	25, 2009, Respondent illegally
25	obtained controlled substances and	l admitted they were for her o	wn personal use, in quantities that
26	would be dangerous or injurious to	herself, as detailed in paragr	aphs 17-22, above.
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1	FOURTH CAUSE FOR DISCIPLINE
2	(Unprofessional Conduct - Violation of California Statutes Regulating Controlled Substances & Dangerous Drugs)
3	Controlled Substances & Dangerous Drugs)
4	26. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
5	Code in that on or about on or about and between February 2008 and March 25, 2009,
6	Respondent knowingly violated Business and Professions Code sections 4022 and 4059, and
7	Health and Safety Code sections 11170 and 11173, when she obtained and/or furnished to herself
8	controlled substances and dangerous drugs without a valid prescription, as detailed in paragraphs
9	17-22, above.
10	FIFTH CAUSE FOR DISCIPLINE
11	(Unprofessional Conduct - Violating Federal & State Laws
12	& Regulations Governing Pharmacy)
13	27. Respondent is subject to disciplinary action under section 4301, subdivision (o) of
14	the Code in that between February 2008 and March 25, 2009, Respondent obtained controlled
15	substances by fraud from the pharmacy where she was employed, and knowingly violated Title
16	21 U.S.C. section 843, subdivision (a)(3), Board of Pharmacy Regulations (California Code of
17	Regulations, Title 16, Section 1700, et seq.), and the California Uniform Controlled Substances
18	Act (Health and Safety Code section 11000, et seq.), as detailed in paragraphs 17-22, above.
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1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board of Pharmacy issue a decision:
4	1. Revoking or suspending Pharmacy Technician Registration Number TCH 68444,
5	issued to Kikilynn Jumper;
6	2. Ordering Kikilynn Jumper to pay the Board of Pharmacy the reasonable costs of the
7	investigation and enforcement of this case, pursuant to Business and Professions Code section
8	125.3;
9	3. Taking such other and further action as deemed necessary and proper.
10	
11	DATED: 3/9/11 Jugine Herly
12	VIRGINIA HEROLD (Executive Officer
13	Board of Pharmacy Department of Consumer Affairs
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