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

10 In the Matter of the Accusation Against:

Case No. 3916

11 **DEBRA JO BLAKEMAN**  
12 **9452 Linden Avenue**  
13 **Bloomington, CA 92316-1433**  
14 **Pharmacy Technician Registration No. TCH**  
**1184**

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

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 29, 1992, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 1184 to Debra Jo Blakeman ("Respondent"). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on December 31, 2011, unless renewed.

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**JURISDICTION**

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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 4300 states, in pertinent part, that every license issued by the Board is subject  
6 to discipline, including suspension or revocation or taking actions in relation to disciplining him  
7 or her as the board in its discretion deems proper.

8       5.     Section 4059 of the Code states:

9       “(a) A person may not furnish any dangerous drug, except upon the prescription of a  
10 physician, dentist, podiatrist, optometrist, or veterinarian.”

11       6.     Section 4301 of the Code states:

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

15       ...

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

19       ...

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

25       ...

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

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1           7.     Section 4060 of the Code states:

2            “No person shall possess any controlled substance, except that furnished to a person upon  
3 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or furnished pursuant  
4 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse  
5 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1.”

6           8.     Section 11170 of the Health and Safety Code states, “[n]o person shall prescribe,  
7 administer, or furnish a controlled substance for himself.”

8           9.     Section 11173 of the Health and Safety Code states:

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

12          10.    Section 11350 of the Health and Safety Code states:

13          “(a) Except as otherwise provided in this division, every person who possesses ... any  
14 controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the  
15 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this  
16 state, shall be punished by imprisonment in the state prison.”

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**DRUG DEFINITIONS**

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19          11.    Butalbital 50 mg, Caffeine 40 mg with APAP 325 mg, trade name Fioricet is a  
20 Schedule III controlled substance pursuant to Health and Safety Code Section 11056(c)(3) and a  
21 dangerous drug per Bus. and Prof. Code Section 4022.

22          12.    Butalbital 50 mg, Caffeine 40 mg with ASA 325 mg, trade name Fiorinal is a  
23 Schedule III controlled substance pursuant to Health and Safety Code Section 11056(c)(3) and a  
24 dangerous drug per Bus. and Prof. Code Section 4022.

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4 **BACKGROUND FACTS**

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6 13. Debra Jo Blakeman ("Respondent") was employed by Kaiser Permanente  
7 Pharmacy #156 ("Kaiser") as Pharmacy Technician in 2009 when investigation and video  
8 surveillance revealed that Respondent took and self-administered butalbital-containing controlled  
9 substances to herself on at least 22 days. Kaiser terminated Respondent after she admitted theft  
10 of generic butalbital-containing products, Fiorinal and Fioricet. The background facts are as  
11 follows:

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13 14. Inventory counts of butalbital products taken at the Kaiser Pharmacy from  
14 approximately 8/17/09 to 10/27/09 showed almost daily losses of generic butalbital-containing  
15 products, Fiorinal and Fioricet.

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17 15. On or around 9/8/09, D.P., a Kaiser Pharmacy Technician, informed N.M., an  
18 Outpatient Pharmacy Director, that when working with Respondent, she observed the Respondent  
19 procure and conceal in her hand, a butalbital-containing product from pharmacy inventory.

20  
21 16. Then, on or around 9/17/09, M.G., a Staff Kaiser Pharmacist, discovered that a full  
22 bottle containing 100 butalbital tabs was missing from the inventory count which she had taken  
23 earlier that morning, only hours prior.

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25 17. After learning of the missing bottle, M.G. immediately contacted J.M., a  
26 Pharmacist-in-Charge, to inform him of the missing butalbital-containing product.  
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1 18. Shortly thereafter, J.M. informed Kaiser's Compliance and Audit Department of  
2 the losses and began counting inventories of seven different butalbital-containing products.

3 19. On or around 10/8/09, video surveillance cameras were installed which monitored  
4 activity at Kaiser until 10/27/09.  
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6 20. Auditing summaries of Fioricet inventory at Kaiser during the time period between  
7 9/17/09 and 10/27/09 resulted in the following findings:  
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<b>Drug</b>	<b>Beginning Inventory</b>	<b>Received Inventory</b>	<b>Quantity Dispensed</b>	<b>Ending Inventory</b>	<b>Variance (Missing Tabs)</b>
Fioricet	471	610	750	163	168

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18 21. Auditing summaries of Fiorinal inventory at Kaiser during the time period between  
19 9/17/09 and 10/27/09 resulted in the following findings:  
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<b>Drug</b>	<b>Beginning Inventory</b>	<b>Received Inventory</b>	<b>Quantity Dispensed</b>	<b>Ending Inventory</b>	<b>Variance (Missing Tabs)</b>
Fiorinal	149	450	310	119	170

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**THIRD CAUSE FOR DISCIPLINE**

**(Obtaining Controlled Substances by Fraud, Deceit and Subterfuge)**

26. Respondent is subject to discipline under Health and Safety Code section 11173, subdivision (a)(1) on the grounds that she obtained dangerous drugs, as defined in Health and Safety Code section 11056(c)(3), by fraud, deceit and subterfuge while working as a pharmacy technician for Kaiser Pharmacy. Complainant incorporates by reference paragraphs 13 – 23 as if fully set forth herein.

**FOURTH CAUSE FOR DISCIPLINE**

**(Commission of Acts Involving Dishonesty, Fraud and Deceit)**

27. Respondent is subject to discipline under Code section 4301, subdivision (f) on the grounds that engaged in unprofessional conduct when she committed acts involving dishonesty, fraud and deceit when she obtained, procured and self-administered dangerous drugs, as defined in Health and Safety Code section 11056, subdivision (c)(3), without a prescription while working as a pharmacy technician for Kaiser Pharmacy. Complainant incorporates by reference paragraphs 13 – 23 as if fully set forth herein.

**FIFTH CAUSE FOR DISCIPLINE**

**(Self-Administration/Dangerous Use of a Controlled Substance)**

28. Respondent is subject to discipline under Code section 4301, subdivision (h) on the grounds that she engaged in unprofessional conduct when she self-administered and used in a dangerous manner, a controlled substance as defined in Health and Safety Code section 11056, subdivision (c)(3), without a prescription while working as a pharmacy technician for Kaiser Pharmacy. Complainant incorporates by reference paragraphs 13 – 23 as if fully set forth herein.

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**SIXTH CAUSE FOR DISCIPLINE**

**(Actions Warranting Denial of a License)**

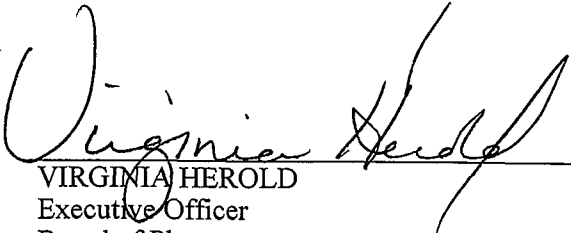
29. Respondent is subject to discipline under Code section 4301, subdivision (p) on the grounds that she engaged in actions that would have warranted denial of a license when she fraudulently obtained, procured and used in a dangerous manner, a controlled substance as defined in Health and Safety Code section 11056, subdivision (c)(3), without a prescription while working as a pharmacy technician for Kaiser Pharmacy. Complainant incorporates by reference paragraphs 13 – 23 as if fully set forth herein.

**PRAYER**

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 1184, issued to Debra Jo Blakeman;
2. Ordering Debra Jo Blakeman 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: 5/9/11

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

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