1 2 3 4 5 6 7 8 9	KAMALA D. HARRIS Attorney General of California GLORIA A. BARRIOS Supervising Deputy Attorney General LANGSTON M. EDWARDS Deputy Attorney General State Bar No. 237926 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 620-6343 Facsimile: (213) 897-2804 Attorneys for Complainant BEFORE THE BOARD OF PHARMACY 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 Bloomington, CA 92316-1433 A C C U S A T I O N
13	Pharmacy Technician Registration No. TCH 1184
14	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 October 29, 1992, the Board of Pharmacy issued Pharmacy Technician
24	Registration Number TCH 1184 to Debra Jo Blakeman ("Respondent"). The Pharmacy
25	Technician Registration was in full force and effect at all times relevant to the charges brought
	herein and will expire on December 31, 2011, unless renewed.
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	Accusation

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 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.
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26	(p) Actions or conduct that would have warranted denial of a license."
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Section 4060 of the Code states:

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"No person shall possess any controlled substance, except that furnished to a person upon 2 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or furnished pursuant 3 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse 4 5 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1." 8. Section 11170 of the Health and Safety Code states, "[n]o person shall prescribe, 6 administer, or furnish a controlled substance for himself." 7 9. Section 11173 of the Health and Safety Code states: 8 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt 9 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, 10 misrepresentation, or subterfuge; or (2) by the concealment of a material fact." 11 10. Section 11350 of the Health and Safety Code states: 12 "(a) Except as otherwise provided in this division, every person who possesses ... any 13 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 state, shall be punished by imprisonment in the state prison." 16 17 **DRUG DEFINITIONS** 18 11. Butalbital 50 mg, Caffeine 40 mg with APAP 325 mg, trade name Fioricet is a 19 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. 25 26 // 27 28 3

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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:
12	
13 14	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
16	products, Fiorinal and Fioricet.
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 20	procure and conceal in her hand, a butalbital-containing product from pharmacy inventory.
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 24	earlier that morning, only hours prior.
25	
26	17. After learning of the missing bottle, M.G. immediately contacted J.M., a
27	Parmacist-in-Charge, to inform him of the missing butalbital-containing product.
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	. Shortly thereafte	r, J.M. informed	Kaiser's Compli	ance and Audit	Department of
the losses	and began counting in	nventories of seve	en different buta	lbital-containing	g products.
19	. On or around 10.	/8/09, video survo	eillance cameras	were installed v	which monitore
activity at	Kaiser until 10/27/09	9.			
20	. Auditing summa	ries of Fioricet ir	iventory at Kaise	er during the tim	ne period betwe
	nd 10/27/09 resulted in		-		
	a 10/2//09 losuited i		nunigs.		
	x				
Drug	Beginning Inventory	Received Inventory	Quantity Dispensed	Ending Inventory	Variance (Missing Tabs)
Fioricet	471	610	750	163	168
<u> </u>					<u> </u>
21		aries of Fiorinal in		er during the tin	ne period betwe
	. Auditing summand 10/27/09 resulted i			er during the tin	ne period betwe
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				er during the tin Ending Inventory	Variance (Missing
9/17/09 a	nd 10/27/09 resulted i Beginning	n the following f	indings: Quantity	Ending	Variance
9/17/09 an Drug Fiorinal	nd 10/27/09 resulted i Beginning Inventory	n the following fi	indings: Quantity Dispensed	Ending Inventory	Variance (Missing Tabs)
9/17/09 as Drug	nd 10/27/09 resulted i Beginning Inventory	n the following fi	indings: Quantity Dispensed	Ending Inventory	Variance (Missing Tabs)
9/17/09 an Drug Fiorinal	nd 10/27/09 resulted i Beginning Inventory	n the following fi	indings: Quantity Dispensed	Ending Inventory	Variance (Missing Tabs)

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1 22. The surveillance cameras captured visual footage and evidence that Respondent 2 fraudulently obtained, procured and self-administered butalbital-containing products on multiple 3 occasions. 4 23. Respondent admitted to having a substance abuse problem and an addiction to 6 butalbital-containing products when confronted with evidence against her on 10/28/09 and again 7 on 1/6/10 in her written correspondence to the Board. 8 9 10 FIRST CAUSE FOR DISCIPLINE 11 (Furnishing Dangerous Drugs without a Prescription) 12 24. Respondent is subject to discipline under Code section 4059, subdivision (a) in 13 24. Respondent is subject to discipline under Code section 11056 subdivision (c)(3), without 14 conjunction with Health and Safety Code section 11056 subdivision (c)(3), without 15 a prescription while working as a pharmacy technician for Kaiser Pharmacy. Complainant 16 incorporates by reference paragraphs 13 – 23 as if fully set forth herein. 17 25. Respondent is subject to discipline under Code section 11056, subdivision (c)(3), without 18 12. Respondent is subject to discipline under Code section 4060 in conjunction with 19 12. Respondent is subject to discipline under Code section 4060 in conjun		
fraudulently obtained, procured and self-administered butalbital-containing products on multiple occasions. 23. respondent admitted to having a substance abuse problem and an addiction to butalbital-containing products when confronted with evidence against her on 10/28/09 and again on 1/6/10 in her written correspondence to the Board. 8 9 10 11 12 13 24. 14 15 15 16 17 18 19 19 10 11 12 13 24. 14 15 15 16 17 18 19 19 10 10 11 11 11 11 12 12 13 14 15 16	1	22. The surveillance cameras captured visual footage and evidence that Respondent
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8 9 9 10 11 FIRST CAUSE FOR DISCIPLINE 12 (Furnishing Dangerous Drugs without a Prescription) 13 24. Respondent is subject to discipline under Code section 4059, subdivision (a) in 14 conjunction with Health and Safety Code section 11070 on the grounds that she furnished 15 dangerous drugs, as defined in Health and Safety Code section 11056 subdivision (c)(3), without 16 a prescription while working as a pharmacy technician for Kaiser Pharmacy. Complainant 17 incorporates by reference paragraphs 13 – 23 as if fully set forth herein. 18 1 19 SECOND CAUSE FOR DISCIPLINE 10 (Possession of Dangerous Drugs without a Prescription) 12 25. Respondent is subject to discipline under Code section 4060 in conjunction with 13 25. Respondent is subject to discipline under Code section 4060 in conjunction with 14 Health and Safety Code section 11350, subdivision (a) on the grounds that she possessed 14 dangerous drugs, as defined in Health and Safety Code section 11056, subdivision (c)(3), without 13 a prescription while working as a pharmacy technician for Kaiser Pharmacy. Complainant 14 a prescription while working as a pharmacy technician for Kaiser Pharmacy. C	6	butalbital-containing products when confronted with evidence against her on 10/28/09 and again
9 10 11 12 13 14 15 16 16 17 18 19 14 15 16 17 18 19 19 10 10 11 11 11 12 13 14 15 15 16 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17 17	7	on 1/6/10 in her written correspondence to the Board.
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 21 25. Respondent is subject to discipline under Code section 4060 in conjunction with 23 24 Health and Safety Code section 11350, subdivision (a) on the grounds that she possessed 24 dangerous drugs, as defined in Health and Safety Code section 11056, subdivision (c)(3), without 25 a prescription while working as a pharmacy technician for Kaiser Pharmacy. Complainant 26 incorporates by reference paragraphs 13 – 23 as if fully set forth herein. 		
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		incorporates by reference paragraphs $13 - 23$ as if fully set forth herein.
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THIRD CAUSE FOR DISCIPLINE

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)	
	,
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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	 (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. EOURTH 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. EIFTH 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.

1	SIXTH CAUSE FOR DISCIPLINE
2	(Actions Warranting Denial of a License)
3	29. Respondent is subject to discipline under Code section 4301, subdivision (p) on the
4	grounds that she engaged in actions that would have warranted denial of a license when she
5	fraudulently obtained, procured and used in a dangerous manner, a controlled substance as
6	defined in Health and Safety Code section 11056, subdivision (c)(3), without a prescription while
7	working as a pharmacy technician for Kaiser Pharmacy. Complainant incorporates by reference
8	paragraphs 13 – 23 as if fully set forth herein.
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11	PRAYER
12	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13	and that following the hearing, the Board of Pharmacy issue a decision:
14	1. Revoking or suspending Pharmacy Technician Registration Number TCH 1184,
15	issued to Debra Jo Blakeman;
16	2. Ordering Debra Jo Blakeman to pay the Board of Pharmacy the reasonable costs of
17	the investigation and enforcement of this case, pursuant to Business and Professions Code section
18	125.3;
19	3. Taking such other and further action as deemed necessary and proper.
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22	DATED: 5/9/11 (uania de d
23 24	VIRGINIA HEROLD Executive Officer
24 25	Board of Pharmacy Department of Consumer Affairs
23 26	State of California Complainant
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