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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. 3933

11 **PATRICIA ANN CARPIO**
12 **1815 E. Jenner Street**
Lancaster, CA 93535
13 **Pharmacy Technician Registration No.**
TCH 3520
14

A C C U S A T I O N

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about January 22, 1993, the Board of Pharmacy issued Pharmacy Technician
21 Registration Number TCH 3520 to Patricia Ann Carpio ("Respondent"). The Pharmacy
22 Technician Registration Number was in full force and effect at all times relevant to the charges
23 brought herein and will expire on February 29, 2012, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy ("Board"), Department of
26 Consumer Affairs, under the authority of the following laws. All section references are to the
27 Business and Professions Code ("Code") unless otherwise indicated.

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 6. Section 4038 of the Code provides:

7 “(a) ‘Pharmacy technician’ means an individual who assists a pharmacist in a pharmacy in
8 the performance of his or her pharmacy related duties, as specified in Section 4115.”

9 **STATUTORY AND REGULATORY PROVISIONS**

10 7. Section 118, subdivision (b) of the Code provides:

11 “The suspension, expiration, or forfeiture by operation of law of a license issued by a
12 board in the department, or its suspension, forfeiture, or cancellation by order of the board or by
13 order of a court of law, or its surrender without the written consent of the board, shall not, during
14 any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
15 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
16 provided by law or to enter an order suspending or revoking the license or otherwise taking
17 disciplinary action against the licensee on any such ground.

18 8. Section 4059, subdivision (a) of the Code provides:

19 “A person may not furnish any dangerous drug, except upon the prescription of a
20 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
21 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
22 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
23 3640.7.”

24 9. Section 4063 of the Code provides, in pertinent part:

25 “No prescription for any dangerous drug or dangerous device may be refilled except upon
26 authorization of the prescriber. The authorization may be given orally or at the time of giving the
27 original prescription. No prescription for any dangerous drug that is a controlled substance may
28 be designated refillable as needed.”

1 10. Section 4300 of the Code provides, in pertinent part, that every license issued by
2 the Board is subject to discipline, including suspension or revocation.

3 11. Section 4301 of the Code provides, in pertinent part:

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

8 ...

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

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

14 ...

15 (j) The violation of any of the statutes of this state, of any other state, or of the United
16 States regulating controlled substances and dangerous drugs.

17 ...

18 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
19 violation of or conspiring to violate any provision or term of this chapter or of the applicable
20 federal and state laws and regulations governing pharmacy, including regulations established by
21 the board or by any other state or federal regulatory agency...”

22 12. Section 4324 of the Code provides, in pertinent part:

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

27 13. California Health and Safety Code section 11150 provides,

28 “No person other than a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor

1 acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting
2 within the scope of a project authorized under Article 1 (commencing with Section 128125) of
3 Chapter 3 of Part 3 of Division 107 or within the scope of either Section 4052.1 or 4052.2 of the
4 Business and Professions Code, a registered nurse acting within the scope of a project authorized
5 under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107, a
6 certified nurse-midwife acting within the scope of Section 2746.51 of the Business and
7 Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business
8 and Professions Code, a physician assistant acting within the scope of a project authorized under
9 Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section
10 3502.1 of the Business and Professions Code, a naturopathic doctor acting within the scope of
11 Section 3640.5 of the Business and Professions Code, or an optometrist acting within the scope of
12 Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant
13 to Section 4005 of the Business and Professions Code shall write or issue a prescription.”

14 14. California Health and Safety Code section 11157 provides that no person shall
15 issue a prescription that is false or fictitious in any respect.

16 15. California Health and Safety Code section 11158, subdivision (a) provides that,
17 “Except as provided in Section 11159 or in subdivision (b) of this section, no controlled
18 substance classified in Schedule II shall be dispensed without a prescription meeting the
19 requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to
20 an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance
21 classified in Schedule III, IV, or V may be dispensed without a prescription meeting the
22 requirements of this chapter.”

23 16. California Health and Safety Code section 11173 provides, in pertinent part:

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

27 (b) No person shall make a false statement in any prescription, order, report, or record,
28 required by this division....”

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. Section 4021 of the Code states:

“‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

18. Section 4022 of the Code states, in pertinent part:

“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

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

...

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

19. Vicoprofen – a brand name formation of hydrocodone/ibuprofen 7.5/200 mg, is a Schedule III controlled substance pursuant to California Health and Safety Code section 11056, subdivision (e)(4) and Code of Federal Regulations section 1308.13, subdivision (e)(1)(iii), and is a dangerous drug pursuant to Business and Professions Code section 4022. Vicoprofen is used to treat moderate to severe pain.

20. Soma – a brand name of carisopradol is a dangerous drug pursuant to Business and Professions Code section 4022. Soma is a muscle relaxant.

COST RECOVERY

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

CHARGES AND ALLEGATIONS

22. Pharmaca Integrative Pharmacy is located at 12025 San Vicente Boulevard in Los Angeles, California.

23. On or about August 3, 2009, while working in her capacity as a pharmacy

1 technician at Pharmaca Integrative Pharmacy in Los Angeles, Respondent prepared a Refill
2 Authorization Request form from a Dr. Peress, for patient S.W.¹ authorizing the refill of a
3 prescription for thirty Vicoprofen tablets, as well as authorizing five additional refills.
4 Respondent signed the Refill Authorization Request form. Dr. Peress did not authorize such a
5 refill.

6 24. On or about May 26, 2009, while working in her capacity as a pharmacy
7 technician at Pharmaca Integrative Pharmacy in Los Angeles, Respondent prepared a Refill
8 Authorization Request form from a Dr. Akhondi, for patient S.W. authorizing the refill of a
9 prescription for sixty Vicoprofen tablets, as well as authorizing five additional refills. Respondent
10 signed the Refill Authorization Request form. Dr. Akhondi did not authorize such a refill.

11 25. Between September 2007 and January 2010, while working in her capacity as a
12 pharmacy technician at Pharmaca Integrative Pharmacy in Los Angeles, Respondent dispensed
13 eighty-five refills for hydrocodone/ibuprofen 7.5/200 mg and twenty-four refills for Soma
14 without valid prescriptions.

15 26. On or about January 14, 2010, Respondent was terminated from employment at
16 Pharmaca Integrative Pharmacy and was arrested by officers with the Los Angeles Police
17 Department.

18 27. Respondent admitted to dispensing controlled substances without valid
19 prescriptions.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Furnishing Drugs Without a Prescription)**

22 28. Respondent's Pharmacy Technician Registration number is subject to disciplinary
23 action under Code sections 4059 and 4301, subdivisions (j) and (o), in that Respondent furnished
24 dangerous drugs, to wit Soma and Vicoprofen without a valid prescription. The circumstances
25 surrounding the conduct are more particularly described in paragraphs 22 through 27, inclusive,
26 above, and herein incorporated by reference.

27
28 ¹ Patient initials are being used to maintain confidentiality.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Refill Prescription Without Prescriber's Authorization)**

3 29. Respondent's Pharmacy Technician Registration number is subject to disciplinary
4 action under Code sections 4063 and 4301, subdivisions (j) and (o), in that Respondent refilled a
5 prescription for dangerous drugs, to wit Soma and Vicoprofen, without authorization of the
6 prescriber. The circumstances surrounding the conduct are more particularly described in
7 paragraphs 22 through 27, inclusive, above, and herein incorporated by reference.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Fraud)**

10 30. Respondent's Pharmacy Technician Registration number is subject to disciplinary
11 action under Code section 4301, subdivision (f) in that Respondent committed a fraudulent act by
12 forging prescriptions for dangerous drugs while working as a pharmacy technician. The
13 circumstances surrounding the conduct are more particularly described in paragraphs 22 through
14 27, inclusive, above, and herein incorporated by reference.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Signing a Forged Document)**

17 31. Respondent's Pharmacy Technician Registration number is subject to disciplinary
18 action under Code section 4301, subdivision (g) in that Respondent committed signed a forged
19 prescription refill authorization form knowing that the prescription refill authorization form was a
20 forgery. The circumstances surrounding the conduct are more particularly described in paragraphs
21 22 through 27, inclusive, above, and herein incorporated by reference.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Making False Prescription)**

24 32. Respondent's Pharmacy Technician Registration number is subject to disciplinary
25 action under Code section 4301, subdivisions (j) and (o), and California Health and Safety Code
26 section 4324, in that Respondent falsely made a prescription for a drug, to wit Vicoprofen. The
27 circumstances surrounding the conduct are more particularly described in paragraphs 22 through
28 27, inclusive, above, and herein incorporated by reference.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Unauthorized Writing of a Prescription)**

3 33. Respondent's Pharmacy Technician Registration number is subject to disciplinary
4 action under Code section 4301, subdivisions (j) and (o), and California Health and Safety Code
5 section 11150, in that Respondent wrote a prescription for a drug, to wit Vicoprofen, even though
6 she was not authorized by law to do so. The circumstances surrounding the conduct are more
7 particularly described in paragraphs 22 through 27, inclusive, above, and herein incorporated by
8 reference.

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 **(Issue a False Prescription)**

11 34. Respondent's Pharmacy Technician Registration number is subject to disciplinary
12 action under Code section 4301, subdivisions (j) and (o), and California Health and Safety Code
13 section 11157, in that Respondent issued a prescription for drugs, to wit Soma and Vicoprofen,
14 that was false. The circumstances surrounding the conduct are more particularly described in
15 paragraphs 22 through 27, inclusive, above, and herein incorporated by reference.

16 **EIGHTH CAUSE FOR DISCIPLINE**

17 **(Dispensed a Schedule III Controlled Substance Without a Prescription)**

18 35. Respondent's Pharmacy Technician Registration number is subject to disciplinary
19 action under Code section 4301, subdivisions (j) and (o), and California Health and Safety Code
20 section 11158, in that Respondent dispensed a schedule III controlled substance, to wit
21 Vicoprofen, without a prescription. The circumstances surrounding the conduct are more
22 particularly described in paragraphs 22 through 27, inclusive, above, and herein incorporated by
23 reference.

24 **NINTH CAUSE FOR DISCIPLINE**

25 **(Procured Administration of Controlled Substance By Fraud)**

26 36. Respondent's Pharmacy Technician Registration number is subject to disciplinary
27 action under Code section 4301, subdivisions (j) and (o), and California Health and Safety Code
28 section 11173, subdivision (a), in that Respondent procured the administration of a controlled

1 substance by fraud. The circumstances surrounding the conduct are more particularly described in
2 paragraphs 22 through 27, inclusive, above, and herein incorporated by reference.

3 **TENTH CAUSE FOR DISCIPLINE**

4 **(Make a False Statement in a Prescription)**

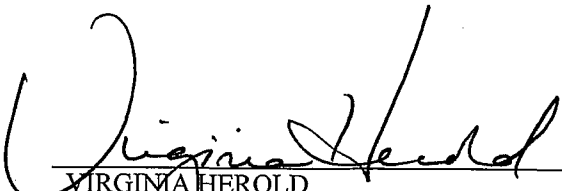
5 37. Respondent's Pharmacy Technician Registration number is subject to disciplinary
6 action under Code section 4301, subdivisions (j) and (o), and California Health and Safety Code
7 section 11173, subdivision (b), in that Respondent made a false statement in a prescription. The
8 circumstances surrounding the conduct are more particularly described in paragraphs 22 through
9 27, inclusive, above, and herein incorporated by reference.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Technician Registration Number TCH 3520,
14 issued to Patricia Ann Carpio;
- 15 2. Ordering Patricia Ann Carpio to pay the Board of Pharmacy the reasonable costs of
16 the investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.

19
20
21 DATED: 2/28/11

22 
23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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