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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. 4351

13 **NADINE CECELIA CASTILLO**  
4875 Titan Street  
Santa Maria, CA 93455

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

14 Pharmacy Technician Registration No. TCH  
76096

15 Respondent.

16  
17  
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 (Board).

22 2. On or about June 15, 2007, the Board issued Pharmacy Technician Registration No.  
23 TCH 76096 to Nadine Cecelia Castillo (Respondent). The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought herein and expired on  
25 December 31, 2012, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board, under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

1  
2       4.     Section 118, subdivision (b), states that the suspension, expiration, surrender, or  
3 cancellation of a license shall not deprive the Board jurisdiction to proceed with a disciplinary  
4 action during the period within which the license may be renewed, restored, reissued or  
5 reinstated.

6       5.     Section 480 states, in pertinent part:

7       "(a) A Board may deny a license regulated by this code on the grounds that the applicant  
8 has one of the following:

9       "....

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

12       6.     Section 492 states:

13       "Notwithstanding any other provision of law, successful completion of any diversion  
14 program under the Penal Code, or successful completion of an alcohol and drug problem  
15 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
16 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
17 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
18 division, from taking disciplinary action against a licensee or from denying a license for  
19 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
20 record pertaining to an arrest.

21       "This section shall not be construed to apply to any drug diversion program operated by any  
22 agency established under Division 2 (commencing with Section 500) of this code, or any  
23 initiative act referred to in that division."

24       7.     Section 4060 states, in pertinent part:

25       "No person shall possess any controlled substance, except that furnished to a person upon  
26 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
27 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
28 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician

1 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
2 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the  
3 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,  
4 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-  
5 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled  
6 with the name and address of the supplier or producer."

7 8. Section 4300, subdivision (a), states that "[e]very license issued may be suspended or  
8 revoked."

9 9. Section 4300.1 states that "[t]he expiration, cancellation, forfeiture, or suspension of a  
10 board-issued license by operation of law or by order or decision of the board or a court of law, the  
11 placement of a license on a retired status, or the voluntary surrender of a license by a licensee  
12 shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or  
13 action or disciplinary proceeding against, the licensee or to render a decision suspending or  
14 revoking the license."

15 10. Section 4301 states, in pertinent part:

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

19 ". . . .

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

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

25 ". . . .

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

28 ". . . .

1 "o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
 2 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
 3 federal and state laws and regulations governing pharmacy, including regulations established by  
 4 the board or by any other state or federal regulatory agency.

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

6 11. Civil Code section 56.10, subdivision (a) states:

7 "No provider of health care, health care service plan, or contractor shall disclose medical  
 8 information regarding a patient of the provider of health care or an enrollee or subscriber of a  
 9 health care service plan without first obtaining an authorization, except as provided in subdivision  
 10 (b) or (c).

#### 11 **REGULATORY PROVISIONS**

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

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

#### 19 **DRUG STATUTES**

20 13. Health and Safety Code section 11170 states that "[n]o person shall prescribe,  
 21 administer, or furnish a controlled substance for himself."

22 14. Health and Safety Code section 11173, subdivision (a), states that "[n]o person shall  
 23 obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
 24 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,  
 25 or subterfuge; or (2) by the concealment of a material fact."

26 15. Health and Safety Code section 11350, subdivision (a), states:

27 "Except as otherwise provided in this division, every person who possesses (1) any  
 28 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of

1 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
2 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
3 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
4 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
5 licensed to practice in this state, shall be punished by imprisonment in the state prison.”

6 16. Health and Safety Code section 11377, subdivision (a), states:

7 “Except as authorized by law and as otherwise provided in subdivision (b) or Section  
8 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the  
9 Business and Professions Code, every person who possess any controlled substance which is (1)  
10 classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision  
11 (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified  
12 in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of  
13 subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055,  
14 unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice  
15 in this state, shall be punished by imprisonment in a county jail for a period of not more than one  
16 year or in the state prison.”

#### 17 COST RECOVERY

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

#### 22 CONTROLLED SUBSTANCE/DANGEROUS DRUG

23 18. **Hydrocodone**, is a Schedule II controlled narcotic substance pursuant to Health and  
24 Safety Code section 11055(b)(j) and a dangerous drug pursuant to Business and Professions Code  
25 section 4022.

26 19. **Norco**, is the brand name for the combination narcotic, Hydrocodone and  
27 Acetaminophen, and is a Schedule III controlled substance pursuant to Health and Safety Code  
28 section 11056(e) and is categorized as a dangerous drug pursuant to Business and Professions

1 Code section 4022.

2 20. Xanax, a brand name for alprazolam, is an anti-anxiety benzodiazepin and is a  
3 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1)  
4 and is categorized as a dangerous drug pursuant to section 4022(c) of the Code.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Unlawful Possession of a Controlled Substance)**

7 21. Respondent is subject to disciplinary action under section 4060, in conjunction with  
8 section 4301, subdivision (o), on the grounds of unprofessional conduct, in that Respondent was  
9 in possession of a controlled substance and dangerous drug, without a valid prescription as  
10 follows:

11 a. On or about November 11, 2011, the Von's Pharmacy Manager, in the city of Santa  
12 Maria, California, notified their Loss Prevention Department alerting them of a possible theft by a  
13 Pharmacy Technician, employed by them, stealing controlled substances, i.e, Norco and Xanax.  
14 A video surveillance camera from October 28, 2011, was reviewed by Von's Loss Prevention  
15 Department Investigator, and revealed the Respondent taking two bottles of controlled substances  
16 and handing them to a male suspect. On November 11, 2011, the Respondent was observed on  
17 the store surveillance camera, giving three vials of drugs to the same male identified in the tape  
18 on October 28, 2011. On November 11, 2011, Santa Maria Police Officers, were contacted to  
19 investigate the theft of the drugs and interviewed the Respondent. The officers obtained a search  
20 warrant to search Respondent's home. The officers recovered two bottles of prescription strength  
21 narcotics that were mislabeled (with medication information of Patient "C.S." and Patient "B.L.")  
22 from Respondent's residence, containing 113 pills of Hydrocodone/apap in each bottle.  
23 Respondent admitted to the officers that she stole two bottles of generic Norco and passed them  
24 to a male suspect. Respondent also admitted to the officers that she had stolen one vial of generic  
25 Norco and one vial of generic Xanax on October 28, 2011, by passing them to the same male  
26 suspect. Respondent admitted that she began taking drugs prior to May 2010, and stopped for a  
27 couple of months. Respondent admitted to the officers that she took an estimated amount of  
28 \$5,600 worth of drugs from Von's while employed as a Pharmacy Technician. Respondent was

1 subsequently charged for violating Penal Code section 503, a felony, [embezzlement] and Health  
2 and Safety Code section 11352, subdivision (a), a felony, [unlawful sales, furnish, and / or  
3 administering controlled substances]. On February 21, 2012, in the criminal proceeding entitled  
4 *The People of the State of California v. Gabriel Antonio Ramos* (Super. Ct. Santa Barbara  
5 County, 2011, No. 1357158), the court ordered Respondent's sentencing to be deferred for three  
6 years and ordered her to complete a substance abuse treatment program.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Obtaining Medications through Fraudulent Representation)**

9 22. Respondent is subject to disciplinary action under sections 4300 and 4301,  
10 subdivision (f), on the grounds of unprofessional conduct, and Health and Safety Code section  
11 11173, subdivision (a), in that Respondent obtained medication through fraudulent representation  
12 when she used patient's name on stolen prescriptions, on November 11, 2011, while employed as  
13 a Pharmacy Technician at Von's Pharmacy. Complainant refers to, and by this reference  
14 incorporates, the allegations set forth above in paragraph 20, subparagraph (a), inclusive, as  
15 though set forth fully.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unauthorized Disclosure of Patients' Confidential Information)**

18 23. Respondent is subject to disciplinary action under Civil Code section 56.10,  
19 subdivision (a), in conjunction with section 4301, subdivision (o), in that Respondent disclosed  
20 medical information regarding patient's information while employed at Von's Pharmacy, as a  
21 Pharmacy Technician, when she used patient's names on unauthorized prescriptions.  
22 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
23 paragraph 20, subparagraph (a), inclusive, as though set forth fully.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Violating Drug Statutes)**

26 24. Respondent is subject to disciplinary action under sections 4300 and 4301,  
27 subdivision (j), on the grounds of unprofessional conduct, for violating provisions of the Health  
28 and Safety Code as follows:

1 a. Health and Safety Code section 11377, subdivision (a), by possessing controlled  
2 substances without a valid prescription.

3 Complainant refers to, and by this reference incorporates, the allegations set forth above in  
4 paragraph 20, subparagraph (a), inclusive, as though set forth fully.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit and / or Corruption)**

7 25. Respondent is subject to disciplinary action under sections 4300 and 4301,  
8 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts  
9 involving moral turpitude, dishonesty, fraud, deceit, and / or corruption when she was caught  
10 stealing controlled substances from Von's Pharmacy on November 11, 2011, while employed as a  
11 Pharmacy Technician. Complainant refers to, and by this reference incorporates, the allegations  
12 set forth above in paragraph 20, subparagraph (a), inclusive, as though set forth fully.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(False Statement on Application for Licensure)**

15 26. Respondent is subject to disciplinary action under sections 480, subdivisions (a)(2),  
16 4301, and 4301, subdivisions (f), (g), (o), and (p), on the grounds of unprofessional conduct, in  
17 that on or about March 21, 2007, Respondent, under penalty of perjury, made a false statement on  
18 her application for licensure. Respondent answered "No" to question 6 indicating that she had  
19 never been convicted of or pled no contest to a violation of any law of a foreign country, the  
20 United States or any state laws or local ordinances. Contrary to that statement, Respondent had  
21 been convicted on or about June 13, 1994, after pleading no contest, of one misdemeanor count of  
22 violating Penal Code section 484, subdivision (a) [petty theft], in the criminal proceeding entitled  
23 *The People of the State of California v. Nadine Cecelia Castillo* (Super. Ct. San Luis Obispo  
24 County, 1994, No. M214832).

25 **SEVENTH CAUSE FOR DISCIPLINE**

26 **(Violation of Pharmacy Act)**

27 27. Respondent is subject to disciplinary action under section 4301, subdivision (o), on  
28 the grounds of unprofessional conduct, in that Respondent violated provisions of the Pharmacy



1 Act. Complainant refers to, and by this reference incorporates, the allegations set forth above in  
2 paragraphs 20 through 25, inclusive, as though set forth fully.

3 **DISCIPLINARY CONSIDERATION**

4 28. To determine the degree of discipline, if any to be imposed on Respondent,  
5 Complainant alleges the following:

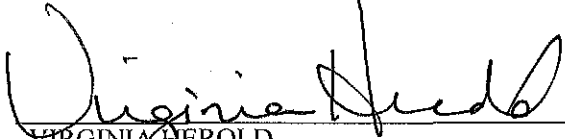
6 On or about June 13, 1994, Respondent was convicted of one misdemeanor count of  
7 violating Penal Code section 484, subdivision (a) [grand theft], in the criminal proceeding entitled  
8 *The People of the State of California v. Nadine Cecelia Castillo* (Super. Ct. San Luis Obispo  
9 County, 1994, No. M214832.) The court sentenced Respondent to serve 2 days in jail, placed her  
10 on probation for a period of 24 months, and fined her. The circumstances surrounding the  
11 conviction are that between on or about February 1, 1994, and May 13, 1994, Respondent  
12 feloniously stole, took, or drove away with personal property of another without their permission.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration No. TCH 76096, issued  
17 to Nadine Cecelia Castillo;
- 18 2. Ordering Nadine Cecelia Castillo to pay the Board the reasonable costs of the  
19 investigation and enforcement of this case, pursuant to Business and Professions Code section  
20 125.3; and
- 21 3. Taking such other and further action as deemed necessary and proper.

22  
23 DATED: 7/22/13

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

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