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

11
12 In the Matter of the Accusation Against:
13 **SHERADAIN MICHEL MICHAEL**
591 Gladiola
14 Hemet, CA 92545
15 **Pharmacy Technician Registration No. TCH**
105752
16 Respondent.

Case No. 4615

A C C U S A T I O N

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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 26, 2010, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 105752 to Sheradain Michel Michael (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on September 30, 2014, unless renewed.

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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 of the Code states, in pertinent part:

6 (a) Every license issued may be suspended or revoked.

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 4059 of the Code provides, in pertinent part, that a person may not furnish
14 any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

16 7. Section 4301 of the Code states, in pertinent part:

17 The board shall take action against any holder of a license who is guilty
18 of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited
19 to, any of the following:

20 . . .

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

24 . . .

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

27 . . .

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

1 8. Health and Safety Code section 11170 states:

2 No person shall prescribe, administer, or furnish a controlled substance for himself.

3 **COST RECOVERY**

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

7 **DRUGS**

8 10. Hydrocodone/APAP is a Schedule III controlled substance as designated by Health
9 and Safety Code section 11056, subdivision (e)(5), and is a dangerous drug pursuant to Business
10 and Professions Code section 4022.

11 11. Oxycodone (Oxycontin) (Endocet) (Percocet) is a Schedule II controlled substance as
12 designated by Health and Safety Code section 11055, subdivision (b)(1)(M), and is a dangerous
13 drug pursuant to Business and Professions Code section 4022.

14 **FACTUAL BACKGROUND**

15 12. On or about July 15, 2012, Respondent started working as a Pharmacy Technician at
16 CVS Pharmacy located at 26851 Trabuco Road in Mission Viejo, California.

17 13. Shortly after Respondent began her employment at CVS, HK, the pharmacist-in-charge
18 of the Trabuco branch noticed that prescription medications began to disappear. On or about July
19 17, 2012, a customer went to the pharmacy to pick up her prescription medication of 90
20 Hydrocodone/APAP 10-325 pills. HK went to the "waiting bin" to retrieve the medication, but
21 she was unable to find it. HK checked the computer to see if the prescription had been filled and
22 she saw that it had been filled on July 15, 2012 and should have been in the waiting bin ready for
23 the customer to pick it up, yet it was missing.

24 14. On or about August 4, 2012, Pharmacist JM did a return on a prescription bottle of 30
25 Oxycontin. While doing the inventory of the bottle of 30 pills, JM noticed that the bottle only
26 had 15 pills. On the same day, a customer came to the pharmacy to pick up his prescription of 90
27 Oxycodone/APAP 5/325 pills. When JM handed the customer his prescription, the customer
28 asked JM to recount the pills in front of him because his prescription was missing pills two weeks

1 earlier. JM counted the prescription medication of Endocet and there were 19 pills missing. JM
2 told HK about the missing Oxycontin and Endocet pills. HK suspected Respondent of the theft
3 because prior to Respondent's employment with CVS, they never had medications missing. Also
4 Respondent was working each time the pills were missing.

5 15. On or about August 4, 2012, Pharmacy Supervisor, RL and CVS's Loss Prevention
6 Manager, LE met with Respondent. Respondent admitted to stealing 50 tablets of
7 Hydrocodone/APAP 10-325, 15 tablets of Oxycodone (Oxycontin) 10 mg, and 18 tablets of
8 Oxycodone/APAP 5/325 (Endocet), in the first week of her employment and in addition on either
9 August 2, 2012 or August 4, 2012. Respondent admitted that during an average week she took 20
10 Hydrocodone/APAP 10-325 pills from CVS. Respondent wrote a statement admitting to the theft
11 of these medications. After the interview, Respondent was told that she was not allowed to return
12 to the store and was escorted out of the store.

13 16. On or about October 11, 2012, a criminal complaint was filed against Respondent in
14 *People v. Sheradain Michel Michael*, Orange County Superior Court, Harbor Justice Center,
15 Newport Beach Facility, Case No. 12HM12631 for petty theft in violation of Penal Code section
16 484(a) for unlawfully stealing the personal property of CVS.

17 17. On or about December 17, 2012, Respondent failed to appear for her criminal
18 arraignment.

19 18. On or about January 23, 2013, a warrant was issued for Respondent's arrest.

20 19. On or about August 23, 2013, the Board received a letter via facsimile from AT,
21 Associate Analyst, Regulatory Compliance, CVS Caremark. The letter reported that CVS # 8891
22 had experienced a significant loss or theft of controlled substances due to employee pilferage
23 resulting in the termination of pharmacy technician Respondent.

24 20. On or about August 24, 2013, the Board received from KD, Director of Regulatory
25 Compliance on behalf of CVS Caremark, an email which included a statement by KD, a signed
26 written statement by Respondent, and a Report of Theft or Loss of Controlled Substances.

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FIRST CAUSE FOR DISCIPLINE

(Obtained Controlled Substances by Theft)

21. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301(f) in that in or around July and August of 2012, while on duty as a pharmacy technician at CVS Pharmacy in Mission Viejo, Respondent committed a dishonest act when she stole the controlled substances Hydrocodone/APAP, Endocet (Percocet), and Oxycontin from the pharmacy. The circumstances are set forth in paragraphs 12 through 20 above, which are incorporated by reference.

SECOND CAUSE FOR DISCIPLINE

(Furnishing Controlled Substances to Herself)

22. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301 (j) and (o) in that in or around July and August of 2012, while on duty as a pharmacy technician at CVS Pharmacy in Mission Viejo, Respondent violated the Pharmacy Act and state statutes regulating controlled substances and dangerous drugs when she furnished the controlled substances Hydrocodone/APAP, Endocet (Percocet), and Oxycontin to herself without authorization from a prescriber in violation of Business and Professions Code section 4059 and Health and Safety Code section 11170. The circumstances are set forth in paragraphs 12 through 20 above, which are incorporated by reference.

THIRD CAUSE FOR DISCIPLINE

(Violated Pharmacy Laws)

23. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301 (o) in that in or around July and August of 2012, while on duty as a pharmacy technician at CVS Pharmacy in Mission Viejo, Respondent violated state laws governing pharmacy, including regulations established by the Board for possessing the controlled substances Hydrocodone/APAP, Endocet (Percocet), and Oxycontin that she took from CVS Pharmacy in violation of Code section 4060. The circumstances are set forth in paragraphs 12 through 20 above, which are incorporated by reference.

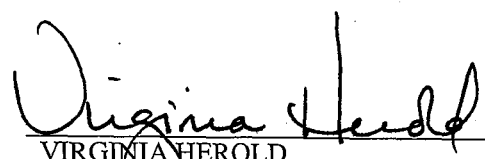
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PRAYER

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 105752, issued to Sheradain Michel Michael
2. Ordering Sheradain Michel Michael 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: 11/4/13



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

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