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

11 In the Matter of the Accusation Against:

Case No. 4695

12 **MELISSA A. IMAI**  
13 **45630 Classic Way**  
14 **Temecula, CA 92592**

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

15 **Pharmacy Technician Registration No. TCH**  
**65321**

16 Respondent.

17  
18  
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 4, 2005, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 65321 to Melissa A. Imai (Respondent). The Pharmacy Technician  
25 Registration was in full force and effect at all times relevant to the charges brought herein and  
26 will expire on March 31, 2015, 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 (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a) of the Code states:

6 "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 license by  
9 operation of law or by order or decision of the board or a court of law, the placement of a license  
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 6. Section 4059 of the Code provides that a person may not furnish any dangerous drug  
15 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
16 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device,  
17 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
18 naturopathic doctor pursuant to Section 3640.7.

19 7. Section 4060 of the Code states:

20 No person shall possess any controlled substance, except that furnished to a  
21 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
22 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
23 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
24 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
25 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a  
26 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
27 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
28 section shall not apply to the possession of any controlled substance by a  
manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
practitioner, or physician assistant, when in stock in containers correctly labeled  
with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse  
practitioner, a physician assistant, or a naturopathic doctor, to order his or her own  
stock of dangerous drugs and devices.

1 8. Section 4301 of the Code states:

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

6 . . . .

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

10 . . . .

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

13 . . . .

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

19 . . . .

20 9. Health and Safety Code section 11170 provides that no person shall prescribe,  
21 administer, or furnish a controlled substance for herself.

22 10. Health and Safety Code section 11171 provides that no person shall prescribe,  
23 administer, or furnish a controlled substance except under the conditions and in the manner  
24 provided by this division.

25 11. Health and Safety Code section 11173(a) provides that no person shall obtain or  
26 attempt to obtain controlled substances, or procure or attempt to procure the administration of or  
27 prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or  
28 (2) by the concealment of a material fact.

**COST RECOVERY**

12. Section 125.3 of the Code states, 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.

1 **DRUG**

2 13. Hydrocodone/acetaminophen (APAP), also known by the brand names Vicodin,  
3 Norco, Zydone, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a narcotic  
4 Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4),  
5 and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone  
6 is used as a narcotic analgesic in the relief of pain.

7 **FACTS**

8 14. Respondent was employed as a Pharmacy Technician at the Costco Pharmacy, store  
9 #677 in Burbank, California from July 25, 2007 through May 6, 2011. Costco terminated  
10 Respondent following an investigation into the attempted renewal of her Hydrocodone/APAP  
11 7.5-750 #120 (Vicodin) prescription.

12 15. On April 29, 2011, while on a break from her duties at Costco, Respondent  
13 telephoned the Pharmacy with a prescription refill for her Vicodin prescription, pretending to be  
14 someone from her prescribing doctor's office. Respondent's co-worker, who took her call,  
15 recognized Respondent's voice. She contacted the prescribing doctor's office and was informed  
16 that the doctor's office had not called in a refill and in fact a refill had not yet been authorized.

17 16. On May 2, 2011, respondent wrote and signed a "Letter of Apology" to the manager  
18 of the Costco admitting that she had called in her own refill.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct – Dishonesty, Fraud, Deceit)**

21 17. Respondent is subject to disciplinary action for unprofessional conduct under section  
22 4301(f) of the Code, in that Respondent called in a refill of her own prescription for Vicodin, in  
23 violation of Health and Safety Code section 11173 (a), as detailed in paragraphs 14-16 above,  
24 incorporated herein by reference.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct – Violation of Chapter)**

27 18. Respondent is subject to disciplinary action for unprofessional conduct under section  
28 4301(o) of the Code, in that Respondent called in a refill of her own prescription for Vicodin, in

1 violation of Health and Safety Code section 11173 (a), as detailed in paragraphs 14-16 above,  
2 incorporated herein by reference.

3 **PRAYER**

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

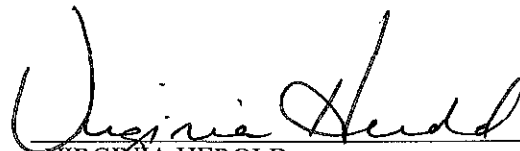
6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 65321,  
7 issued to Melissa A. Imai;

8 2. Ordering Melissa A. Imai to pay the Board of Pharmacy the reasonable costs of the  
9 investigation and enforcement of this case, pursuant to Business and Professions Code section  
10 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12  
13  
14 DATED: \_\_\_\_\_

9/6/13



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

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