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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4704

11
12 **LEEAH JEAN BANKS**
43302 7th Street East
13 Lancaster, CA 93535

A C C U S A T I O N

14 Pharmacy Technician License No.
15 TCH 57721

16 Respondent.

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.

22 2. On or about July 22, 2004, the Board of Pharmacy issued Pharmacy Technician
23 License Number TCH 57721 to Leeah Jean Banks (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on October 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 unless otherwise indicated.

5 4. Section 4300 subdivision (a) of the Code states: "Every license issued may be
6 suspended or revoked."

7 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
8 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
9 disciplinary action during the period within which the license may be renewed, restored, reissued
10 or reinstated.

11 **STATUTORY PROVISIONS**

12 6. Section 4301 of the Code states:

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

16 (a) Gross immorality.

17 ...

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

20 ...

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

23 ...

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

.....

1 7. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
2 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
3 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

4 8. Section 4060 of the Code states:

5 No person shall possess any controlled substance, except that furnished to a
6 person upon the prescription of a physician, dentist, podiatrist, optometrist,
7 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
8 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
9 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
10 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
11 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
12 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
13 shall not apply to the possession of any controlled substance by a manufacturer,
14 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
15 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
16 physician assistant, when in stock in containers correctly labeled with the name and
17 address of the supplier or producer.

18

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

23 COST RECOVERY

24 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
28 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

DRUGS

11 11. Dilaudid, a brand name for Hydromorphone, which is a Schedule II controlled
12 substance, a dangerous drug pursuant to Code section 4022, and is used to treat moderate to
13 severe pain.

1 12. Patient Controlled Analgesia (PCA) is a means for a patient to self-administer pain
2 medications intravenously themselves by using a computerized pump, which introduces specific
3 doses into an intravenous line.

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct- Possession of Controlled Substance without a Prescription)

6 13. Respondent is subject to disciplinary action under section Business and Professions
7 Code sections 4301 (f), (g), (o) and 4060 for unprofessional conduct in that she engaged in acts
8 that constitute dishonesty and/or corruption, that are in violation of any statutes regulating
9 controlled substances and dangerous drugs, and/or that prohibit a person from possessing any
10 controlled substance except that furnished with a prescription. The circumstances are as follows:

11 14. On or about September 30, 2011, at 2258 hours, while working as a pharmacy
12 technician on the 8th Floor of UCLA Medical Center, located at 662 Gayley Avenue, Los
13 Angeles, Respondent accessed a hydromorphone 50mg/50ml PCA pocket in the Intensive Care
14 Unit medication room without authorization. Subsequent testing of the contents of the PCA
15 pocket after it had been removed by Respondent showed that it no longer contained
16 hydromorphone.

17 15. On or about October 1, 2011, at 0323 hours, Respondent removed and possessed a
18 hydromorphone 50mg/5ml amp from the 6th floor of UCLA Medical Center Pyxis Medstation,
19 after her shift without authorization. A security video tape from the medical center showed
20 Respondent preparing a hydromorphone PCA syringe. Testing of the PCA syringe after it had
21 been removed by Respondent indicated that it no longer contained hydromorphone.

22 **SECOND CAUSE FOR DISCIPLINE**

23 (Unprofessional Conduct- Prohibition on Prescribing, Furnishing, Controlled Substance for Self)

24 16. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
25 Code in that on or about September 30, 2011 and October 1, 2011, while working as a pharmacy
26 technician on the 8th Floor of UCLA Medical Center, located at 662 Gayley Avenue, Los
27 Angeles, Respondent knowingly violated Business and Professions Code sections 4059 and 4060
28 and Health and Safety Code section 11170 in that she possessed dangerous drugs/controlled

1 substances without authorized prescriptions. Such conduct is substantially related to the
2 qualifications, duties, and functions of a pharmacy technician. The circumstances are set forth
3 above in paragraphs 14 and 15 as though set forth fully herein.

4 **THIRD CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct -Obtained Controlled Substance by Fraud, Deceit, and Subterfuge)

6 17. Respondent is subject to disciplinary action under section Health and Safety Code
7 section 11173 (a) in that on or about September 30, 2011 and October 1, 2011, while working as a
8 pharmacy technician on the 8th Floor of UCLA Medical Center, located at 662 Gayley Avenue,
9 Los Angeles, Respondent obtained controlled substances by fraud, deceit or subterfuge. The
10 circumstances are set forth above in paragraphs 14 and 15 as though set forth fully herein.

11 **PRAYER**

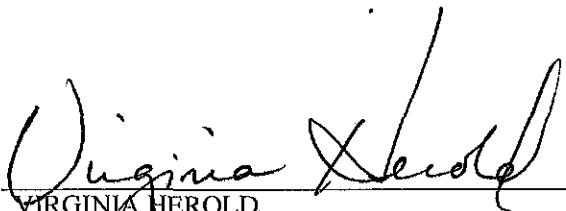
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacy Technician License Number TCH 57721, issued
15 to Leeah Jean Banks

16 2. Ordering Leeah Jean Banks to pay the Board of Pharmacy the reasonable costs of the
17 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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21
22 DATED: 5/10/14


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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