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8	BEFORE THE	
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
10	STATE OF CALIFORNIA	
11	In the Matter of the Accusation Against:	Case No. 4864
12	LEANNE C. CONLEY	
13	AKA LEANNE MARTIN 4623 North Emerson 103	ACCUSATION
14	Fresno, California 93722	
15	Pharmacy Technician Registration No. TCH 36081	
16	Respondent.	
17		<u>·</u>
-18	Complainant alleges:	·
19	<u>PARTIES</u>	
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 April 24, 2001, the Board of Pharmacy issued Pharmacy Technician	
23	Registration Number TCH 36081 to Leanne C. Conley, also known as (aka) Leanne Martin,	
24	(Respondent). The Pharmacy Technician Registration was in full force and effect at all times	
25	relevant to the charges brought herein and will expire on December 31, 2014, unless renewed.	
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Accusation

### **JURISDICTION**

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
  - 4. Section 4300 of the Code states in pertinent part:
  - (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
  - (1) Suspending judgment.
  - (2) Placing him or her upon probation.
  - (3) Suspending his or her right to practice for a period not exceeding one year.
  - (4) Revoking his or her license.
- (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.
  - 5. Section 4300.1 of the Code states:

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

### **BUSINESS AND PROFESSIONS CODE PROVISIONS**

6. Section 4301 of the Code states in pertinent part:

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

(f) The commission of any act involving moral turpitude, dishonesty, fraud, 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.

- (j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.
- (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.
- 7. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician.
- 8. Section 4060 of the Code states in pertinent part, that a person may not possess any controlled substance, except that furnished to a person upon the prescription of a physician.
- 9. Section 4063 of the Code states in pertinent part: "No prescription for any dangerous drug or dangerous device may be refilled except upon authorization of the prescriber. The authorization may be given orally or at the time of giving the original prescription..."
  - 10. Section 4324 of the Code states:
- "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.
- "(b) Every person who has in his or her possession any drugs secured by a forged prescription shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year."
  - 11. Section 4325 of the Code states in pertinent part:
- "(a) No person other than a physician, dentist, podiatrist, veterinarian, pharmacist, or other person authorized by law to dispense, administer, or prescribe controlled substances, or the person's agent acting under authorization by the person to print prescription blanks, and acting in the regular practice of the person's profession, shall knowingly and willfully manufacture, copy, reproduce, or possess, or cause to be manufactured, copied, reproduced, or possessed, any prescription blank that purports to bear the name, address, and federal registry or other identifying

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information of a physician, dentist, podiatrist, veterinarian, or other person authorized by law to

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
- (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on

## **HEALTH AND SAFETY CODE PROVISIONS**

- 13. Health and Safety Code section 11173, subsection (a) states in pertinent part:
- (a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances,
  - Health and Safety Code section 11350 states in pertinent part:
- (a) Except as otherwise provided in this division, every person who possesses any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
- Health and Safety Code section 11352 states in pertinent part, that every person who sells, furnishes, administers, or gives away any controlled substance classified in Schedule III, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.

16. Health and Safety Code section 11368 states: "Every person who forges or alters a prescription or who issues or utters an altered prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription, or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription, shall be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the state prison.

#### **DRUGS**

- 17. Health and Safety Code section 11056(e) designates Hydrocodone a Schedule III controlled substance, and a dangerous drug pursuant to Code section 4022. In combination with acetaminophen, it is known by the brand names of Norco, Vicodin, Lortab, and Lorcet.
- 18. Amoxicillin is an antibiotic in the penicillin family and a dangerous drug pursuant to Code section 4022.

### COST RECOVERY

19. 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.

#### **BACKGROUND INFORMATION**

- 20. Respondent worked for Wal-Mart as a pharmacy technician for approximately 10 years, from 2001 until 2011. Respondent saw Dr. Y on or about August 6, 2009, and was issued a prescription. When Dr. Y issued Respondent the prescription, he inadvertently tore an extra, blank sheet from his prescription pad and gave it to Respondent. Respondent discovered and saved the additional prescription sheet.
- 21. On or about December 16, 2010, Respondent used the additional prescription sheet to forge a prescription for her son, B.F., for Vicodin (Hydrocodone) and Amoxicillin. Respondent forged Dr. Y's signature, then had the prescription filled. The Wal-Mart computer system shows the prescription was paid for using cash so no customer signature was required. Respondent also destroyed the original forged prescription.

22. On or about January 13, 2011, Respondent attempted to obtain a refill for the forged prescription for Vicodin (Hydrocodone). Respondent apparently used another pharmacist's signon information for the Wal-Mart Pharmacy computer system while that pharmacist was on his lunch break, and input information that "Mary" from Dr. Y's office had called in a refill for the forged prescription. No refills were authorized, or could have been authorized since the original prescription was forged. Dr. Y does not employ anyone named "Mary." Another pharmacist noticed that this information was entered at a time when the pharmacist allegedly entering it was at lunch, and brought the discrepancy to the attention of Wal-Mart loss prevention. Respondent was interviewed and admitted to forging the original prescription, inputting information about the refill, and providing the drugs to her son. Further, Respondent explained and signed a declaration providing the information in paragraph 18, above, in regards to how she obtained the blank prescription form.

# FIRST CAUSE FOR DISCIPLINE

## (Acts Involving Dishonesty, Fraud, or Deceit)

- 23. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subsection (f), in that she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as follows:
- a. On or about August 6, 2009, Respondent unlawfully took a blank prescription form from the office of a licensed physician as set forth in paragraph 20, above. Respondent possessed the blank prescription form without appropriate authorization from approximately August 6, 2009, until approximately December 16, 2010 in violation of Code section 4325.
- b. On or about December 16, 2010, Respondent unlawfully forged a prescription for Vicodin (Hydrocodone) and Amoxicillin in violation of Code section 4324, and Health and Safety Code sections 11173, subsection (a), and 11386, as set forth in paragraph 21, above.
- c. On or about January 13, 2011, Respondent unlawfully used another pharmacist's log-in information in order to fraudulently insert information into the Wal-Mart Pharmacy computer system for the purpose of obtaining a refill for a forged prescription in

violation of Code section 4063, and Health and Safety Code section 11173, subsection (a), as set forth in paragraph 22, above.

## SECOND CAUSE FOR DISCIPLINE

# (Violation of Laws Governing Controlled Substances)

- 24. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subsection (j) in that she violated the laws governing controlled substances as follows:
- a. From approximately August 6, 2009, until approximately December 16, 2010, Respondent possessed a blank prescription form without appropriate authorization in violation of Code section 4325 as set forth in paragraphs 20 and 23(a), above.
- b. On or about December 16, 2010, Respondent forged a prescription in order to obtain Vicodin (Hydrocodone) in violation of Health and Safety Code sections 11173, subsection (a), and 11368, as set forth fully in paragraphs 21 and 23(b), above.
- c. On or about December 16, 2010, Respondent possessed a controlled substance that was not validly prescribed to her in violation of Code section 4060, and Health and Safety Code section 11350, as set forth fully in paragraphs 20-22, above.
- d. On or about December 16, 2010, Respondent possessed a controlled substance with intent to sell, furnish, or give away the controlled substance in violation of Code section 4059 and Health and Safety Code section 11352, as set forth fully in paragraphs 20-22, above.
- e. On or about January 13, 2011, Respondent falsified computer records in order to obtain a refill of the prescription she had forged in violation of Code section 4063, as set forth fully in paragraphs 21 and 23(c), above.

# THIRD CAUSE FOR DISCIPLINE

#### (Violation of the Provisions of this Article)

25. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subsection (o) in that she violated the provisions and terms of the Pharmacy Law commencing with Code section 4000, and the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or

1	federal regulatory agency The circumstances are as set forth in paragraphs 20-22, 23(a-c), 24(a)	
2	and 24(c-e) above, as though set forth fully herein.	
3	<u>PRAYER</u>	
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 36081,	
7	issued to Leanne C. Conley, aka Leanne Martin;	
8	2. Ordering Leanne C. Conley, aka Leanne Martin, to pay the Board of Pharmacy the	
9	reasonable costs of the investigation and enforcement of this case, pursuant to Business and	
10	Professions Code section 125.3;	
11	3. Taking such other and further action as deemed necessary and proper.	
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15	DATED: 9/19/13 Jugino Herold	
16	Executive Officer Board of Pharmacy	
17	Department of Consumer Affairs State of California	
18	Complainant	
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