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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. 4868

13 **ERIC SORIA**
16442 Virginia Ave.
Paramount, CA 90723

ACCUSATION

(Gov. Code, § 11503.)

14 **Pharmacy Technician Registration**
15 **No. TCH 102812**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Virginia Herold brings this Accusation solely in her official capacity as
21 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

22 2. On September 13, 2010, the Board issued Pharmacy Technician Registration Number
23 TCH 102812 to Respondent Eric Soria. The registration was in full force and effect at all times
24 relevant to the charges brought herein. The registration expired on September 30, 2014 and is
25 now cancelled.

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1 **JURISDICTION**

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

4 4. Code section 4300 provides that every license issued by the Board may be revoked or
5 suspended and that proceedings to discipline a license are to be conducted according to the
6 Administrative Procedure Act (Gov. Code, §§ 11370, *et seq.*).

7 5. Code section 4300.1 provides that the “expiration, cancellation, forfeiture, or
8 suspension of a board-issued license by operation of law or by order or decision of the board or a
9 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
10 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
11 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
12 suspending or revoking the license.”

13 **STATUTES**

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

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

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 chapter or
26 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.

27 (p) Actions or conduct that would have warranted denial of a license.
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DRUG STATUTES

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2 7. Section 4059 states, in pertinent part:

3 (a) A person may not furnish any dangerous drug, except upon the prescription of
4 a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
5 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7.

6 8. Section 4060 of the Code states:

7 No person shall possess any controlled substance, except that furnished to a
8 person upon the prescription of a physician, dentist, podiatrist, optometrist,
9 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
10 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
11 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section
12 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to
13 either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of
paragraph (5) of, subdivision (a) of Section 4052. This 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.

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

16 9. Health and Safety Code section 11173 states, in pertinent part:

17 (a) No person shall obtain or attempt to obtain controlled substances, or procure
18 or attempt to procure the administration of or prescription for controlled substances, (1)
by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a
19 material fact.

20 10. Health and Safety Code section 11350 states, in pertinent part:

21 (a) Except as otherwise provided in this division, every person who possesses
22 (1) any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of
23 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
24 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
25 11055, or specified in subdivision (h) of Section 11056, or (2) 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 in a county jail for not more than one
year, except that such person shall instead be punished pursuant to subdivision (h) of
26 Section 1170 of the Penal Code if that person has one or more prior convictions for an
27 offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e)
of Section 667 of the Penal Code or for an offense requiring registration pursuant to
28 subdivision (c) of Section 290 of the Penal Code.

1 11. Health and Safety Code section 11352 states, in pertinent part:

2 (a) Except as otherwise provided in this division, every person who transports,
3 imports into this state, sells, furnishes, administers, or gives away, or offers to
4 transport, import into this state, sell, furnish, administer, or give away, or attempts to
5 import into this state or transport (1) any controlled substance specified in subdivision
6 (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in
7 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
8 subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
9 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a
10 narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
11 veterinarian licensed to practice in this state, shall be punished by imprisonment
12 pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five
13 years.

14 (b) Notwithstanding the penalty provisions of subdivision (a), any person who
15 transports any controlled substances specified in subdivision (a) within this state from
16 one county to another noncontiguous county shall be punished by imprisonment
17 pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine
18 years.

19 (c) For purposes of this section, 'transports' means to transport for sale.

20 (d) This section does not preclude or limit the prosecution of an individual for
21 aiding and abetting the commission of, or conspiring to commit, or acting as an
22 accessory to, any act prohibited by this section.

23 COST RECOVERY

24 12. Code section 125.3 provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licentiate found to have committed a violation of the licensing
26 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
27 case.

28 DRUG CLASSIFICATIONS

13. Soma is a brand name for carisoprodol. The drug acts as a muscle relaxer and is
indicated for painful musculoskeletal conditions. Soma is considered a non-narcotic dangerous
drug. (Bus. & Prof. Code, § 4022.)

14. Promethazine with codeine is used to treat allergy symptoms and to prevent motion
sickness, nausea and vomiting. It may be used as a sedative or sleep aid. Promethazine with
codeine is a considered a dangerous drug and a narcotic drug. It is classified as a Schedule V
controlled substance. (Bus. & Prof. Code, § 4022; Health & Saf. Code, § 11058, subd. (c)(1).)

1 conspiracy. The stolen drugs included promethazine with codeine, about 60 tablets of Soma 350
2 mg and about 60 tablets of Vicodin 5/500mg. The drugs were worth \$993.57.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Violation of State Drug Laws)**

5 21. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
6 for unprofessional conduct, in that Respondent violated state statutes regulating controlled
7 substances and dangerous drugs, as follows:

8 a. Respondent unlawfully furnished dangerous drugs in violation of Code section 4059.
9 Complainant realleges paragraphs 13–20.

10 b. Respondent unlawfully furnished and gave away controlled substances in violation of
11 Health and Safety Code section 11352. Complainant realleges paragraphs 13–20.

12 c. Respondent unlawfully possessed controlled substances in violation of Code section
13 4060. Complainant realleges paragraphs 13–20.

14 d. Respondent unlawfully possessed narcotic controlled substances in violation of
15 Health and Safety Code section 11350. Complainant realleges paragraphs 13–20.

16 e. Respondent obtained controlled substances by fraud, deceit, misrepresentation and
17 subterfuge or by concealment of a material fact in violation of Health and Safety Code section
18 11173. Complainant realleges paragraphs 13–20.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Dishonesty and Fraud)**

21 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
22 for unprofessional conduct in that Respondent committed acts involving moral turpitude,
23 dishonesty, fraud, deceit and corruption. Complainant realleges paragraphs 13–21.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violate Pharmacy Act)**

3 23. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
4 for unprofessional conduct in that he violated and aided and abetted another in violating
5 provisions of the Pharmacy Act and state laws and regulations governing pharmacy. Complainant
6 realleges paragraphs 13-22.

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Conduct Warranting Denial)**


9 24. Respondent is subject to disciplinary action under Code section 4301, subdivision (p),
10 for unprofessional conduct in that Respondent committed acts that would have warranted denial
11 of a license. Complainant realleges paragraphs 13-23.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration No. TCH 102812, issued
16 to Eric Soria;
- 17 2. Ordering Eric Soria to pay the Board the reasonable costs of the investigation and
18 enforcement of this case, pursuant to section 125.3; and,
- 19 3. Taking such other and further action as deemed necessary and proper.
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23 DATED: 8/31/15

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

LA2013509895