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8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
9	STATE OF CONSUMER AFFAIRS	
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11	In the Matter of the Accusation Against: Case No. 4871	
12	JOHN H. REESE A C C U S A T I O N	
13	17990 Hillwood Lane Morgan Hill, CA 95037	
14	Pharmacy Technician Registration No. TCH 79305	
15	Respondent.	
16		
17	Complainant alleges:	
18	PARTIES	
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity	
20	as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.	
21	2. On or about November 2, 2007, the Board issued Pharmacy Technician Registration	
22	Number TCH 79305 to John H. Reese (Respondent). The Pharmacy Technician Registration was	
23	in full force and effect at all times relevant to the charges brought herein and will expire on	
24	September 30, 2015, unless renewed.	
25	JURISDICTION	
26	3. This Accusation is brought before the Board under the authority of the following	
27	laws. All section references are to the Business and Professions Code (Code) unless otherwise	
28	indicated.	
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4. Section 4011 of the Code provides that the Board shall administer and enforce both 1 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances 2 Act [Health & Safety Code, § 11000 et seq.]. 3 Section 4300(a) of the Code provides that every license issued by the Board may be 5. 4 suspended or revoked. 5 Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or 6. 6 suspension of a Board-issued license, the placement of a license on a retired status, or the 7 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to 8 commence or proceed with any investigation of, or action or disciplinary proceeding against, the 9 licensee or to render a decision suspending or revoking the license. 10 11 STATUTORY AND REGULATORY PROVISIONS 12 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action 13 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but 14 not be limited to, any of the following: 15 16 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or 17 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and 18 whether the act is a felony or misdemeanor or not. 19 20 (i) The violation of any of the statutes of this state, of any other state, or of the United 21 States regulating controlled substances and dangerous drugs. 22 23 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the 24 violation of or conspiring to violate any provision or term of this chapter or of the applicable 25 federal and state laws and regulations governing pharmacy, including regulations established by 26 the board or by any other state or federal regulatory agency. 27 28. . . 2

1	8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
2	drug or dangerous device except upon the prescription of an authorized prescriber.
3	9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
4	controlled substance, except that furnished upon a valid prescription/drug order.
5	10. Health and Safety Code section 11170 provides that no person shall prescribe,
6	administer, or furnish a controlled substance for himself or herself.
7	11. Health and Safety Code section 11173, subdivision (a), provides that no person shall
8	obtain or attempt to obtain controlled substances, or procure or attempt to procure the
9	administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
10	or subterfuge; or (2) by the concealment of a material fact.
11	12. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
12	any controlled substance listed in Schedule II (Health and Safety Code section 11055),
13	subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.
14	<u>COST RECOVERY</u>
15	13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
16	administrative law judge to direct a licentiate found to have committed a violation of the licensing
17	act to pay a sum not to exceed its reasonable costs of investigation and enforcement.
18	CONTROLLED SUBSTANCES / DANGEROUS DRUGS
19	14. Section 4021 of the Code states:
20	"Controlled substance' means any substance listed in Chapter 2 (commencing with Section
21	11053) of Division 10 of the Health and Safety Code."
22	15. Section 4022 of the Code states, in pertinent part:
23	"Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use,
24	except veterinary drugs that are labeled as such, and includes the following:
25	"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without
26	prescription,' 'Rx only,' or words of similar import
27	"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
28	prescription or furnished pursuant to Section 4006."
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1	16. Hydrocodone/APAP (acetaminophen) is a narcotic and analgesic combination used
2	to relieve moderate to moderately severe pain. Also known under the brand names Norco and
3	Vicodin, it is among the most abused pain killers. Hydrocodone is a Schedule III controlled
4	substance as designated by Health and Safety Code section 11056(e)(4), and dangerous pursuant
5	to Business and Professions Code section 4022.
6	FACTUAL BACKGROUND
7	17. On or about August 19, 22, 23, and September 1, 2011, Respondent diverted
8	Hydrocodone/APAP 5/325 while employed by Kaiser Permanente as a pharmacy technician at
9	Kaiser's outpatient pharmacy (PHY 48291) in San Jose, California. Following investigation,
10	including review of video surveillance, Kaiser terminated Respondent's employment effective
11	November 1, 2011.
12	FIRST CAUSE FOR DISCIPLINE
13	(Possession of a Controlled Substance)
14	18. Respondent is subject to discipline under Code sections 4301(j), 4301(o), 4060 and/or
15	Health and Safety Code section 11350, for possession of a controlled substance or substances
16	without a prescription, as described in paragraph 17, above.
17	SECOND CAUSE FOR DISCIPLINE
18	(Obtaining a Controlled Substance by Fraud, Deceit or Subterfuge)
19	19. Respondent is subject to discipline under Code sections 4301(j), 4301(o) and/or
20	Health and Safety Code section 11173(a), in that Respondent obtained, conspired to obtain,
21	and/or assisted in or abetted the obtaining of a controlled substance, by fraud, deceit, subterfuge,
22	or concealment of material fact, as described in paragraph 17, above.
23	THIRD CAUSE FOR DISCIPLINE
24	(Acts Involving Moral Turpitude, Dishonesty or Fraud)
25	20. Respondent is subject to discipline under Code section 4301(f) for committing an act
26	or acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as described in
27	paragraph 17, above.
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	Accusation

1	FOURTH CAUSE FOR DISCIPLINE
2	(Furnishing a Dangerous Drug/Controlled Substance)
3	21. Respondent is subject to discipline under Code sections 4301(j), 4301(o), 4059,
4	and/or Health and Safety Code section 11170, in that Respondent furnished to himself or another
5	without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of,
6	a dangerous drug and/or a controlled substance, as described in paragraph 17, above.
7	FIFTH CAUSE FOR DISCIPLINE
8	(Unprofessional Conduct)
9	22. Respondent is subject to discipline under section 4301 for unprofessional conduct as
10	described in paragraph 17, above.
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 Registration Number TCH 79305,
15	issued to John H. Reese;
16	2. Ordering John H. Reese 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:
23	Executive Officer Board of Pharmacy
24	Department of Consumer Affairs State of California
25	Complainant
26	SF2013405543
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