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	BEFORE THE		
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
9	STATE OF	CALIFORNIA	
10	In the Matter of the Accusation Against:	Case No. 4921	
11	GEARL DEAN STEVENS		
12	3000 Whisper Oak Way Bakersfield, CA 93311	ACCUSATION	
13	Pharmacy Technician Registration No. TCH		
14	73620		
15	Respondent.		
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17	Complainant alleges:		
18	<u>PARTIES</u>		
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On or about October 4, 2007, the Board of Pharmacy issued Pharmacy Technician		
22	Registration Number TCH 73620 to Gearl Dean Stevens (Respondent). The Pharmacy		
23	Technician Registration expired on May 31, 2013, and has not been renewed.		
24	<u>JURISDICTION</u>		
25	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
26	Consumer Affairs, under the authority of the following laws. All section references are to the		
27	Business and Professions Code unless otherwise indicated.		
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7. Section 4059, subdivision (a) of the Code states:

(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

8. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1 or a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to 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, physician, podisatrist, dentist, 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, or a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

- 9. Section 11173, subdivision (a) of the California Health and Safety Code states:
- "(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, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

COST RECOVERY

10. 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.

<u>DRUGS</u>

11. Lortab 7.5-500, a brand name for Hydrocodone/apap, is a narcotic Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is used as a narcotic analgesic in the relief of severe pain.

12. **Fioricet**, a brand name for Butalbital-Caffeine-Acetaminophen, is a dangerous drug pursuant to Business and Professions Code section 4022 and is used to treat migraine headaches.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct in the Commission of an Act Involving Dishonesty, Fraud, Deceit)

13. Respondent is subject to disciplinary action under Business and Professions Code section 4301, subdivision (f) for committing an act involving moral turpitude, dishonesty, fraud or deceit in that Respondent obtained dangerous drugs and controlled substances without a prescription when she diverted approximately 20 pills of hydrocodone/apap 7.5-500mg tablets and approximately 330 pills of generic Fioricet, both for her own use, while working as a pharmacy technician at CVS Pharmacy in Bakersfield from August 1, 2011 to July 20, 2012.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Violation of Health and Safety Code section 11173(a))

14. Respondent is subject to disciplinary action under Business and Professions Code section 4301, subdivision (j) for violating Health and Safety Code section 11173(a) in that Respondent obtained controlled substances by fraud, deceit, misrepresentation, or subterfuge or by the concealment of a material fact when Respondent diverted approximately 20 pills of hydrocodone/apap 7.5-500mg tablets while working as a pharmacy technician at CVS Pharmacy in Bakersfield from August 1, 2011 to July 20, 2012.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Unlawful Possession of a Controlled Substance)

15. Respondent is subject to disciplinary action under Business and Professions Code section 4301, subdivision (j) for violating Business and Professions Code section 4060 in that Respondent possessed controlled substances without a prescription when she diverted approximately 20 pills of hydrocodone/apap 7.5-500mg tablets while working as a pharmacy technician at CVS Pharmacy in Bakersfield from August 1, 2011 to July 20, 2012.

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FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Furnishing Dangerous Drugs Without a Prescription)

16. Respondent is subject to disciplinary action under Business and Professions Code section 4301, subdivision (j) for violating Business and Professions Code section 4059(a) in that she furnished dangerous drugs without a prescription when she diverted approximately 20 pills of hydrocodone/apap 7.5-500mg tablets and approximately 330 pills of generic Fioricet, both for her own use, while working as a pharmacy technician at CVS Pharmacy in Bakersfield from August 1, 2011 to July 20, 2012.

PRAYER

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

- 1. Revoking or suspending Pharmacy Technician Registration Number TCH 73620, issued to Gearl Dean Stevens;
- 2. Ordering Gearl Dean Stevens to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
 - 3. Taking such other and further action as deemed necessary and proper.

DATED: 3/12/14

VIRGINIA HEROLD Executive Officer Board of Pharmacy

Department of Consumer Affairs

State of California
Complainant

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