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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:
11 **NATALIE CROSSMAN**
12 **1333 Castro Street**
13 **San Francisco, CA 94114**
14 **Pharmacy Technician License No. TCH 87607**
15 Respondent.

Case No. 4939

ACCUSATION

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
20 2. On or about December 3, 2008, the Board of Pharmacy issued Pharmacy Technician
21 License Number TCH 87607 to Natalie Crossman (Respondent). The Pharmacy Technician
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on March 31, 2014, unless renewed.

24
25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code (Code) unless otherwise indicated.

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
7 suspension of a Board-issued license, the placement of a license on a retired status, or the
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
10 licensee or to render a decision suspending or revoking the license.

11
12 STATUTORY AND REGULATORY PROVISIONS

13 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
14 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
15 not be limited to, any of the following:

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

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

25 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
26 drug or dangerous device except upon the prescription of an authorized prescriber.

27 9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
28 controlled substance, except that furnished upon a valid prescription/drug order.

1 10. Section 4063 of the Code provides, in pertinent part, that no prescription for a
2 dangerous drug may be refilled except upon authorization of the prescriber.

3 11. Health and Safety Code section 11171 provides that no person shall prescribe,
4 administer, or furnish a controlled substance except under the conditions and in the manner
5 provided by Division 10 (commencing with section 11000) of the Health and Safety Code.

6 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
7 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
8 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
9 or subterfuge; or (2) by the concealment of a material fact.

10 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
11 certain Schedule I-III controlled substances, or any controlled substance in Schedules III-V which
12 is a narcotic drug, unless upon written prescription of an authorized prescriber.

13 14. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess
14 certain Schedule I-III controlled substances, or any controlled substance in Schedules III-V which
15 is not a narcotic drug, unless upon written prescription of an authorized prescriber.

16 15. California Code of Regulations, title 16, section 1770, states:

17 “For the purpose of denial, suspension, or revocation of a personal or facility license
18 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
19 crime or act shall be considered substantially related to the qualifications, functions or duties of a
20 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
21 licensee or registrant to perform the functions authorized by her license or registration in a manner
22 consistent with the public health, safety, or welfare.”

23
24 COST RECOVERY

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

1 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

2 17. Section 4021 of the Code states:

3 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
4 11053) of Division 10 of the Health and Safety Code.”

5 18. Section 4022 of the Code states, in pertinent part:

6 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
7 except veterinary drugs that are labeled as such, and includes the following:

8 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
9 prescription,’ ‘Rx only,’ or words of similar import.

10 ...

11 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
12 prescription or furnished pursuant to Section 4006.”

13 19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for
14 compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III
15 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
16 drug as designated by Business and Professions Code section 4022. The varying compounds are
17 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

18 20. **Ativan** is a brand name for **lorazepam**, a Schedule IV controlled substance as
19 designated by Health and Safety Code section 11057(d)(16) and dangerous drug as designated by
20 Business and Professions Code section 4022. It is a medication used to treat anxiety disorders.

21 21. **Cogentin** is a brand name for **benztropine**, a dangerous drug as designated by
22 Business and Professions Code section 4022, used for extrapyramidal disorders and parkinsonism.

23 22. **Neurontin** is a brand name for **gabapentin**, a dangerous drug as designated by
24 Business and Professions Code section 4022, used for epilepsy and postherpetic neuralgia.

25 23. **Zoloft** is a brand name for **sertraline**, a dangerous drug as designated by Business
26 and Professions Code section 4022, used for depression, OCD, and panic disorders.

27 24. **Trifluoperazine** is a dangerous drug as designated by Business and Professions Code
28 section 4022, used for schizophrenia and nonpsychotic anxiety.

FACTUAL BACKGROUND

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2 25. Between on or about December 20, 2008 and on or about December 28, 2012,
3 Respondent was employed as a pharmacy technician at a Walgreens Pharmacy (PHY 35277) in
4 San Francisco, CA, where by virtue of her employment she had access to controlled substances
5 and dangerous drugs, and to the means for entering prescriptions and refills into the data system.

6 26. During the tenure of her employment by Walgreens Pharmacy, Respondent used her
7 access to divert/steal controlled substances and dangerous drugs, including **Hydrocodone with**
8 **APAP** controlled substance/dangerous drug products, and/or to create unauthorized refills.

9 27. The exact number of instances of diversion/theft or creation of unauthorized refills by
10 Respondent, and the full quantity of controlled substances or dangerous drugs diverted/stolen by
11 Respondent, or dispensed pursuant to unauthorized refills created by her, are not known, but in
12 the course of investigations conducted by the pharmacy and by the Board of Pharmacy, the
13 following were among the observations, admissions, and revelations reported:

14 a. On or about December 28, 2012, a prescriber located in Massachusetts (Dr.
15 N.S.) reported to the pharmacist(s) at the Walgreens Pharmacy which employed Respondent that
16 unauthorized refills had been added to prescriptions previously written for patient J.R.¹ The
17 pharmacist(s) recognized the name of the patient as being a friend/cohabitant of Respondent.

18 b. During the course of an interview with Walgreens Pharmacy supervisor(s)
19 and/or Loss Prevention staff conducted on or about December 28, 2012, Respondent admitted
20 both verbally and in writing that she: had on at least ten (10) occasions taken/diverted from the
21 pharmacy at least three to four (3-4) tablets/doses of **Hydrocodone with APAP 10/325** (generic
22 **Norco**), which she had given to a friend; and had on at least one (1) occasion entered refills into
23 the Walgreens Pharmacy data system for four (4) medications prescribed for patient J.R., without
24 a valid prescriber authorization for any of the four (4) refills entered into the system.

25 c. Audit(s) of the controlled substances inventory between June 1, 2011 and June
26 25, 2013 at the Walgreens where Respondent worked revealed the following shortages:

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28 ¹ All names herein have been reduced to initials to protect confidentiality. The full names
can be provided to Respondent during discovery.

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- 46 tablets **Hydrocodone with APAP 5/325** (generic **Norco**);
- 18 tablets **Hydrocodone with APAP 10/300** (generic **Vicodin**);
- 832 tablets **Hydrocodone with APAP 10/325** (generic **Norco**);
- 382 tablets **Lorazepam 1mg** (generic **Ativan**).

d. Review of the patient profile and other records maintained by the pharmacy for patient J.R., and further communications with Dr. N.S., revealed that unauthorized refills were added to prescriptions previously issued by Dr. N.S. for patient J.R. for **Lorazepam 1mg** (generic **Ativan**), **Benzotropine 0.5mg** (generic **Cogentin**), **Gabapentin 100mg** (generic **Neurontin**), **sertraline 100mg** (generic **Zoloft**), and **Trifluoperazine 5mg**. Specifically, on or about July 24, 2012, unauthorized refills were added to prescription number 1835161, for **Sertraline 100mg**, to prescription number 1835162, for **Gabapentin 100mg**, to prescription number 1835163, for **Trifluoperazine 5mg**, and to prescription number 1835164, for **Benzotropine 0.5mg**. Then, on or about August 19, 2012, unauthorized refills were added to prescription number 1840749, for **Lorazepam 1mg**. The unauthorized refills were created using a copy/create function within the Walgreens pharmacy system, and the majority were entered using Respondent's log on initials. The unauthorized refills for patient J.R. were subsequently dispensed/sold as follows:

- **Lorazepam 1mg** (120 tablets per refill) – August 19, September 16, October 18, and November 15, 2012;
- **Benzotropine 0.5mg** (60 tablets per refill) – July 24, August 28, September 27, October 18, and November 15, 2012;
- **Gabapentin 100mg** (180 tablets per refill) – July 24, September 10, October 18, and November 15, 2012;
- **Sertraline 100mg** (45 tablets per refill) – July 24, October 18, and November 15, 2012; and
- **Trifluoperazine 5mg** (30 tablets per refill) – July 24, September 10, October 5, November 4, and December 9, 2012.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

3 28. Respondent is subject to discipline under section 4301(f) of the Code, in that
4 Respondent, as described in paragraphs 25 to 27 above, committed acts involving moral turpitude,
5 dishonesty, fraud, deceit, or corruption.

6
7 SECOND CAUSE FOR DISCIPLINE

8 (Furnishing of Controlled Substance(s))

9 29. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
10 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described
11 in paragraphs 25 to 27 above, furnished, and/or conspired to furnish, and/or assisted or abetted
12 furnishing of, a controlled substance, without a valid prescription.

13
14 THIRD CAUSE FOR DISCIPLINE

15 (Possession of Controlled Substance(s))

16 30. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
17 4060 of the Code, and/or Health and Safety Code section(s) 11350 and/or 11377, in that
18 Respondent, as described in paragraphs 25 to 27 above, possessed, conspired to possess, and/or
19 assisted in or abetted possession of, a controlled substance, without a prescription.

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21 FOURTH CAUSE FOR DISCIPLINE

22 (Dispensing Dangerous Drug Without Authorized Refill)

23 31. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
24 4063 of the Code, in that Respondent, as described in paragraphs 25 to 27 above, dispensed,
25 conspired to dispense, and/or assisted in or abetted dispensing of, a dangerous drug pursuant to a
26 refill, without a valid authorization from the prescriber for said refill.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

3 32. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
4 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
5 25 to 27 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
6 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

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8 SIXTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

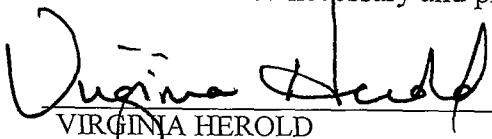
10 33. Respondent is subject to discipline under section 4301 of the Code in that
11 Respondent, as described in paragraphs 25 to 32 above, engaged in unprofessional conduct.

12
13 PRAAYER

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

- 16 1. Revoking or suspending Pharmacy Technician License Number TCH 87607, issued to
- 17 Natalie Crossman (Respondent);
- 18 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
- 19 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 20 3. Taking such other and further action as is deemed necessary and proper.

21 DATED: 11/4/13



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

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