

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2095
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4974

11 **ELIZABETH ANN ENGMAN**
12 **8927 Canby Avenue**
13 **Northridge, CA 91325**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **112823**

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, Department of Consumer Affairs.

21 2. On or about May 10, 2011, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 112823 to Elizabeth Ann Engman (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on February 28, 2015, unless renewed.

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 unless otherwise indicated.

1 4. Section 118, subdivision (b), of the Code provides that the
2 suspension/expiration/surrender/cancellation of a license shall not deprive the
3 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
4 within which the license may be renewed, restored, reissued or reinstated.

5 5. Section 4060 of the Code states:

6 "No person shall possess any controlled substance, except that furnished to a person upon
7 the prescription of a physician, dentist, podiatrist, optometrist, veterinarián, or naturopathic doctor
8 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
9 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
10 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
11 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
12 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
13 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
14 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
15 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
16 labeled with the name and address of the supplier or producer."

17 6. Section 4300 provides, in pertinent part, that every license issued by the Board is
18 subject to discipline, including suspension or revocation.

19 7. Section 4300.1 of the Code states:

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

25 8. Section 4301 of the Code states:

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

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"(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.

....

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

"(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."

9. Section 4327 of the Code states:

"Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

10. Section 11170 of the Health and Safety Code states:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

REGULATORY PROVISIONS

11. California Code of Regulations, title 16, section 1770 states, in pertinent part:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **COST RECOVERY**

5 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

10 13. Norco is the brand name for the combination narcotic, Hydrocodone and
11 Acetaminophen, and is a Schedule III controlled substance pursuant to Health and Safety Code
12 section 11056, subdivision (e) and is categorized as a dangerous drug pursuant to Business and
13 Professions Code section 4022.

14 14. Vicodin ES is the brand name for Hydrocodone with Acetaminophen. It is a Schedule
15 III controlled substance as designated by Health and Safety Code section 11056, subdivision
16 (e)(4) and is a dangerous drug as defined in Business and Professions Code section 4022.

17 15. Soma is a Schedule IV controlled substance according to Health and Safety Code
18 section 11056, subdivision (d) and is a dangerous drug as defined in Business and Professions
19 Code section 4022. Its indicated use is as an adjunct to rest, physical therapy and other measures
20 for acute painful musculoskeletal conditions.

21 **FIRST CAUSE FOR DISCIPLINE**

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

23 16. Respondent is subject to disciplinary action under sections 4300 and 4301,
24 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts
25 involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent to substantially
26 benefit himself, or substantially injure another, as follows:

27 a. On or about September 21, 2012, the Ventura County Sheriff's Department responded
28 to a call from CVS in Thousand Oaks, California where Respondent was employed. The Loss

1 Prevention Manager for CVS informed the sheriff deputy that she had received information that
2 Respondent was stealing and consuming drugs from the pharmacy. When asked about stealing
3 and consuming drugs, Respondent admitted to stealing and consuming Norco, Vicodin ES and
4 Soma from the pharmacy.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Unprofessional Conduct/ Violation of Licensing Chapter)**

7 17. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
8 (o), in that Respondent committed acts of unprofessional conduct and/ or violated provisions of
9 the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations
10 set forth above in paragraph 16, subparagraph (a), as though set forth fully.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Possession of a Controlled Substance Without a Prescription)**

13 18. Respondent is subject to disciplinary action for unprofessional conduct under Code
14 section 4301, subdivision (j), 4060, in conjunction with Health and Safety Code section 11170, in
15 that Respondent stole Norco, Vicodin ES and Soma from the pharmacy while working as a
16 pharmacy technician at CVS Pharmacy. Complainant refers to, and by this reference
17 incorporates, the allegations set forth above in paragraph 16, subparagraph (a), as though set forth
18 fully.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Substantially Related Act)**

21 19. Respondent is subject to disciplinary action under California Code of Regulations,
22 title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed an
23 act substantially related to the qualifications, functions, or duties of a pharmacy technician.
24 Complainant refers to, and by this reference incorporates, the allegations set forth above in
25 paragraph 16, subparagraph (a), as though set forth fully.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Working as a Technician While Under the Influence of a Controlled Substance)**

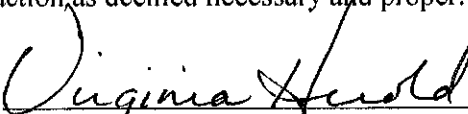
3 20. Respondent is subject to disciplinary action for unprofessional conduct under Code
4 section 4301, subdivision (h), 4327, in conjunction with Health and Safety Code section 11170, in
5 that Respondent administered Norco, Vicodin ES and Soma to herself while working as a
6 pharmacy technician at CVS Pharmacy. Complainant refers to, and by this reference
7 incorporates, the allegations set forth above in paragraph 16, subparagraph (a), as though set forth
8 fully.

9 **PRAYER**

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

- 12 1. Revoking or suspending Pharmacy Technician Registration Number TCH 112823,
13 issued to Elizabeth Ann Engman;
- 14 2. Ordering Elizabeth Ann Engman to pay the Board of Pharmacy the reasonable costs
15 of the investigation and enforcement of this case, pursuant to Business and Professions Code
16 section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: 1/31/14


19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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