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

11 In the Matter of the Accusation Against:

Case No. 5049

12 **RYAN THOMAS DAULT**  
12282 Summerbreeze Lane  
13 San Diego, CA 92128

**A C C U S A T I O N**

14 **Pharmacy Technician Registration No. TCH**  
15 **115052**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 31, 2011, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 115052 to Ryan Thomas Dault (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 October 31, 2014, 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 4300 of the Code states:

2           (a) Every license issued may be suspended or revoked.

3           (b) The board shall discipline the holder of any license issued by the board, whose  
4           default has been entered or whose case has been heard by the board and found  
          guilty, by any of the following methods:

5                   (1) Suspending judgment.

6                   (2) Placing him or her upon probation.

7                   (3) Suspending his or her right to practice for a period not exceeding one  
8                   year.

9                   (4) Revoking his or her license.

10                  (5) Taking any other action in relation to disciplining him or her as the board  
                  in its discretion may deem proper.

11                   ...

12           (e) The proceedings under this article shall be conducted in accordance with  
13           Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
14           Government Code, and the board shall have all the powers granted therein. The  
          action shall be final, except that the propriety of the action is subject to review by  
          the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

15           5.    Section 4300.1 of the Code states:

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

20                                   **STATUTORY AND REGULATORY PROVISIONS**

21           6.    Section 4060 of the Code states:

22                   No person shall possess any controlled substance, except that furnished to a  
23                   person upon the prescription of a physician, dentist, podiatrist, optometrist,  
24                   veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
25                   pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
26                   2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
27                   pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or  
28                   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, 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.

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

4 7. Section 4301 of the Code states:

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

9 ...

10 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit,  
11 or corruption, whether the act is committed in the course of relations as a licensee  
12 or otherwise, and whether the act is a felony or misdemeanor or not.

13 ...

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

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  
26 chapter or of the applicable federal and state laws and regulations governing  
27 pharmacy, including regulations established by the board or by any other state or  
28 federal regulatory agency.

...

8. Section 11350(a)(1) of the Health and Safety Code provides that it is unlawful to  
possess a controlled substance unless upon the written prescription of a licensed physician, dentist,  
podiatrist, or veterinarian.

9. Section 11173(a) of the Health and Safety Code provides that no person shall obtain  
or attempt to obtain controlled substances, or procure or attempt to procure the administration of  
or prescription for controlled substances by fraud, deceit, misrepresentation or subterfuge or by  
concealment of a material fact.

1 **COST RECOVERY**

2 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 **DRUGS**

9 11. Norco, a brand name for hydrocodone bitartate/acetaminophen, is a narcotic Schedule  
10 III controlled substance as designated by Health and Safety Code section 11056(e)(4) and is a  
11 dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is used as  
12 a narcotic analgesic in the relief of pain.

13 **FACTS**

14 12. Respondent was employed by Costco as a warehouse floor associate on May 26,  
15 2010. Shortly after Respondent became a licensed Pharmacy Technician on August 31, 2011, he  
16 started to work in the pharmacy at Costco's Carmel Mountain store.

17 13. On or about October 12, 2012, A.R., a Costco Loss Prevention employee received  
18 information from two Costco employees that their prescriptions were short several pills after filling  
19 their prescriptions at Costco's pharmacy.

20 14. When Respondent reported to work at the pharmacy on October 30, 2012, his speech  
21 was slurred and he was not able to remain focused or alert to perform his job. He advised J.A., the  
22 Pharmacy Manager, that he had taken too much Soma (clarisoprodol) for a medical condition he  
23 had and for which he claimed he had a prescription. Respondent was sent home because of his  
24 impaired condition. Respondent did not have a prescription for Soma.

25 15. The following day, October 31, 2012, Respondent reported to work in an impaired  
26 state again and was sent home until he could function normally.

27 16. In early October, 2012, J.A. started daily reviews of the stock-on-hand of  
28 hydrocodone/APAP because of discrepancies in the quantity of this drug during her weekly audits.

1 On November 3, 2012, J.A. discovered a shortage of #30 hydrocodone/APAP 10/325, #44  
2 hydrocodone/APAP 5/500 and #10 hydrocodone/APAP 5/325 during a random, weekly  
3 medication audit. J.A. alerted her managers of the shortage and of Respondent's behavior.

4 17. Respondent had been addicted to Norco since about November, 2011 and had taken  
5 Norco outside of work for the past year. Respondent did not have a prescription for Norco. He  
6 had a relapse in October, 2012 when he came to work under the influence. Respondent took  
7 about 30 Norco tablets from the pharmacy on approximately six different occasions over the past  
8 two months by concealing five to six pills at a time on his person and exiting the building. When  
9 he reported to work on October 30 and 31, 2012, Respondent was under the influence of the  
10 stolen Norco.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct - Commission of Any Act Involving Dishonesty, Fraud and Deceit)**

13 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),  
14 for unprofessional conduct in that Respondent committed acts involving dishonesty, fraud and  
15 deceit when he stole Norco from his employer and was dishonest about the reason he was impaired  
16 on October 30, 2012, as is more fully set forth in paragraphs 12-17 above and incorporated by this  
17 reference as though set forth in full herein.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct - Unlawful Possession of Controlled Substance)**

20 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),  
21 in conjunction with Code section 4060, for unprofessional conduct in that Respondent unlawfully  
22 possessed a controlled substance, specifically Norco, as is more fully set forth in paragraphs 12-17  
23 above and incorporated by this reference as though set forth in full herein.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Self-Administration of Drug to the Extent Dangerous to Himself**  
26 **or the Public)**

27 20. Respondent is subject to disciplinary action under Code section 4301, subdivision (h)  
28 for unprofessional conduct in that Respondent administered Norco to himself to the extent or in

1 such a manner as to be dangerous or injurious to himself and to the public, as is more fully set  
2 forth in paragraphs 12-17 above and incorporated by this reference as though set forth in full  
3 herein.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct – Violation of Laws Regarding of Controlled Substance)**

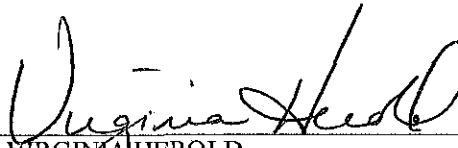
6 21. Respondent is subject to disciplinary action under Code sections 4301, subdivisions (j)  
7 and (o), in conjunction with Health and Safety Code sections 11350(a)(1) and 11173(a), for  
8 unprofessional conduct. Respondent violated laws regulating controlled substances and dangerous  
9 drugs and laws regulating pharmacy in that Respondent unlawfully obtained and possessed Norco  
10 by fraud, deceit and subterfuge, as is more fully set forth in paragraphs 12-17 above and  
11 incorporated by this reference as though set forth in full herein.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 115052,  
16 issued to Ryan Thomas Dault;
- 17 2. Ordering Ryan Thomas Dault to pay the Board of Pharmacy the reasonable costs of  
18 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
19 125.3; and,
- 20 3. Taking such other and further action as deemed necessary and proper.

21  
22 DATED: 4/5/14

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

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