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

12 In the Matter of the Accusation Against:

Case No. 5114

13 **JILL MARIE ONSTAD**
2974 Salmon Road
Copperopolis, CA 95228

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 106058**

16 Respondent.

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 September 15, 2010, the Board issued Pharmacy Technician Registration
22 Number TCH 106058 to Jill Marie Onstad ("Respondent"). The pharmacy technician registration
23 expired on February 28, 2014.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board under the authority of the following
26 laws. All section references are to the Business and Professions Code ("Code") unless otherwise
27 indicated.

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1 4. Code section 4300 states, in pertinent part:

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

3 (b) The board shall discipline the holder of any license issued by the
4 board, whose 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 5. Code section 4300.1 states:

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

16 **STATUTORY PROVISIONS**

17 6. Code section 4301 states, in pertinent part:

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

21

22 (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
23 a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

24

25 (h) The administering to oneself, of any controlled substance, or the use
26 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
27 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.

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(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.

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(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

6. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, 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, or 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.

7. Health and Safety Code section 11350, subdivision (a), states:

Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

COST RECOVERY

8. Bus. & Prof. Code section 125.3 provides, in pertinent part, that a 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.

DRUGS

9. **Lortab** is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

BACKGROUND

10. At all times relevant to the charges brought herein, Respondent was employed as a registered pharmacy technician at CVS Pharmacy #09539 located at 41 North Main Street, Angels Camp, California, ("CVS").

1 11. Between on or about November 14, 2012, and January 16, 2013, CVS Pharmacy
2 #09539 conducted an investigation of its supply of hydrocodone 7.5-500, 10-500, and 10-325.
3 After determining a loss, CVS notified the Board and the Board's subsequent audit of CVS's
4 inventory indicated CVS had a loss of approximately 2073 tablets of hydrocodone-containing
5 drugs.

6 12 On or about January 16, 2013, Respondent was interviewed by staff of CVS
7 Pharmacy #09539 staff during its investigation. Respondent admitted she had stolen
8 approximately 30 tablets of Lortab 7.5/500 between the Fall of 2012 and the week before
9 Thanksgiving 2012 while working her shifts at CVS. She also admitted to ingesting the stolen
10 Lortab tablets during her shifts at CVS. Respondent was terminated from her employment on
11 January 18, 2013.

12 **FIRST CAUSE FOR DISCIPLINE**

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

14 13. Respondent is subject to disciplinary action pursuant to Code section 4301,
15 subdivision (f), for unprofessional conduct, in that while employed and on duty as a registered
16 pharmacy technician at CVS Pharmacy #09539, Respondent committed acts involving moral
17 turpitude, dishonesty, fraud, deceit, or corruption, as set forth in paragraph 12, above,
18 incorporated herein by reference.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Self-Administration of Controlled Substances)**

21 14. Respondent is subject to disciplinary action pursuant to Code section 4301,
22 subdivision (h), for unprofessional conduct, in that in and between the Fall of 2012 and the week
23 before Thanksgiving 2012, Respondent self-administered approximately 30 tablets of Lortab
24 7.5/500, while working her shifts at CVS Pharmacy #09539, which she admittedly stole from CVS.

25 **THIRD CAUSE FOR DENIAL**

26 **(Violations of State Laws Regulating Controlled Substances)**

27 15. Respondent is subject to disciplinary action pursuant to Code section 4301,
28 subdivision (j), for unprofessional conduct, in that in and between the Fall of 2012 and the week

1 before Thanksgiving 2012, Respondent possessed approximately 30 tablets of Lortab 7.5/500, as
2 set forth in paragraph 12, above, incorporated herein by reference, without a valid prescription
3 from a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, in violation
4 of Code section 4060 and Health and Safety Code section 11350, subdivision (a).

5 **FOURTH CAUSE FOR DENIAL**

6 **(Violations of the Pharmacy Law)**

7 16. Respondent is subject to disciplinary action pursuant to Code section 4301,
8 subdivision (o), for unprofessional conduct, in that in and between the Fall of 2012 and the week
9 before Thanksgiving 2012, Respondent violated or attempted to violate, directly or indirectly, a
10 provision or term of the Pharmacy Law (Bus. & Prof. Code § 4300, et seq.), specifically, Code
11 section 4060, as set forth in paragraph 15, above, incorporated herein by reference.

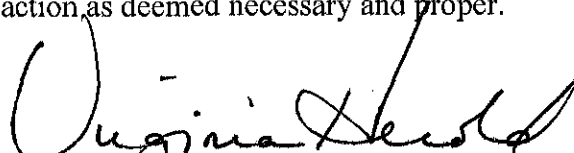
12 **PRAYER**

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 106058,
16 issued to Jill Marie Onstad;
- 17 2. Ordering Jill Marie Onstad to pay the Board of Pharmacy the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Business and Professions Code section
19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21
22 DATED: _____

6/9/14



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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