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

11 In the Matter of the Accusation Against:

Case No. 5176

12 **ALVIN A. ANGELES**
13 **8334 Sutter Buttes Way**
Sacramento, CA 95828

ACCUSATION

14 **Pharmacy Technician Registration No. TCH 88474**

15 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 ("Board"), Department of Consumer Affairs.

21 2. On or about January 16, 2009, the Board issued Pharmacy Technician Registration
22 Number TCH 88474 to Alvin A. Angeles ("Respondent"). On or about June 3, 2014 the license
23 was suspended, pursuant to Penal Code section 23, by order of the court in Sacramento County
24 Superior Court Case No. 13F07481, *People v. Alvin A. Angeles*. On or about August 31, 2014,
25 the license expired.

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JURISDICTION

3. Business and Professions Code ("Code") section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

4. Code section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the 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 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

5. Code section 4301 states, in pertinent part:

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

....

(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.

....

(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.

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

....

(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

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1 6. Code section 4022 states:

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
3 humans or animals, and includes the following:

4 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
5 prescription," "Rx only," or words of similar import.

6 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
7 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
8 in with the designation of the practitioner licensed to use or order use of the device.

9 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
10 prescription or furnished pursuant to Section 4006."

11 7. Code section 4059 states that a person may not furnish any dangerous drug except
12 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
13 doctor pursuant to Section 3640.7.

14 8. Code section 4060 states, in pertinent part:

15 No person shall possess any controlled substance, except that furnished to
16 a person upon the prescription of a physician, dentist, podiatrist, optometrist,
17 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
18 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
19 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
20 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
21 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
22 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

23 9. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that
24 "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to
25 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
26 misrepresentation, or subterfuge . . ."

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

28 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

1 practice in this state, shall be punished by imprisonment pursuant to subdivision (h)
2 of Section 1170 of the Penal Code.

3 **COST RECOVERY**

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

8 **CONTROLLED SUBSTANCES & DANGEROUS DRUGS**

9 12. "Viagra" a brand of Sildenafil citrate, is a dangerous drug within the meaning of
10 Business and Professions Code section 4022 in that it requires a prescription under federal law.

11 10. "Norco" a brand of hydrocodone bitartrate and acetaminophen, is a Schedule III
12 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

13 **BACKGROUND**

14 13. On or about June 21, 2009 to February 5, 2012, Respondent was employed as a
15 pharmacy technician at CVS Pharmacy # 9832 in Vallejo, California. On or about February 5,
16 2012 to August 4, 2013, Respondent was employed as a pharmacy technician at CVS Pharmacy #
17 3022 in Galt, California. On or about August 4, 2013 to October 9, 2013, Respondent was
18 employed as a pharmacy technician at CVS Pharmacy # 9199 in Fair Oaks, California.

19 14. From about September 26, 2012, October 7, 2012 and October 24, 2012, and January
20 17, 2013, a Sacramento County Sheriff officer discovered a Craig's List ad selling "Magic Blue
21 Pills – Viagra" for \$15.00 each. In response, the Sacramento County Sheriff's office conducted
22 an undercover operation on November 1, 2012, December 3, 2012, and October 3, 2013,
23 purchasing 75 Viagra tables from Respondent, without a doctor's note or prescription. On or
24 about October 3, 2013, Respondent was arrested by the Sacramento County Sheriff and admitted
25 to stealing Viagra and Norco from work and selling these controlled substances over the internet
26 for the past two years. Respondent stated that he stole approximately about one bottle of 30 pills
27 per month. After a search of Respondent's vehicle after his arrest, law enforcement officers
28 discovered one bottle of Norco, one bottle of Vicodin, and one bottle of Metformin

1 Hydrochloride that had been stolen from Respondent's employer, CVS Pharmacy. Later, it was
2 determined that the drug thefts from CVS Pharmacy by Respondent totaled \$9,263.98..

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of a Crime)**

5 15. Respondent is subject to discipline pursuant to Code section 4301(l), on the grounds
6 of unprofessional conduct, in that on or about July 30, 2015, in the case of *People v. Alvin A.*
7 *Angeles* (Super. Ct., Sacramento County, No. 13F07481), Respondent was convicted by the Court
8 on his plea of nolo contendere of violating Penal Code section 508. The circumstances of the
9 crime are that from on or about October 3, 2011 to October 3, 2013, while acting as a pharmacy
10 technician at CVS Pharmacy, Respondent fraudulently appropriated for his own use property of
11 CVS Pharmacy which had come into his control and care by virtue of his employment as a
12 pharmacy technician.

13 **SECOND CAUSE FOR DISCIPLINE**

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

15 16. Respondent is subject to disciplinary action pursuant to Code section 4301,
16 subdivision (f), for unprofessional conduct, and Health and Safety Code section 11173,
17 subdivision (a), in that while on duty as a pharmacy technician at CVS Pharmacy from
18 approximately October 3, 2011 to October 3, 2013, Respondent obtained dangerous drugs and
19 controlled substances by fraud and deceit and committed acts involving moral turpitude,
20 dishonesty, fraud, deceit, or corruption, as set forth in paragraphs 13-15, above.

21 **THIRD CAUSE FOR DISCIPLINE**

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

23 17. Respondent is subject to disciplinary action pursuant to Code section 4301,
24 subdivision (j), for unprofessional conduct, in violation of Code section 4060 and/or Health and
25 Safety Code section 11350, subdivision (a), in that while on duty as a pharmacy technician at
26 CVS Pharmacy from approximately October 3, 2011 to October 3, 2013, Respondent possessed
27 the controlled substances Norco without a valid or lawful prescription for these controlled
28 substances, as set forth in paragraphs 13-15, above.

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FOURTH CAUSE FOR DENIAL

(Violations of the Pharmacy Law)

18. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivisions (j) and (o), for unprofessional conduct, Respondent violated or attempted to violate, directly or indirectly, a provision or term of the Pharmacy Law (Bus. & Prof. Code § 4300, et seq.), specifically, Code sections 4059(a) and 4060, in that while on duty as a pharmacy technician at CVS Pharmacy from approximately October 3, 2011 to October 3, 2013, Respondent obtained, and possessed the controlled substances Norco and the dangerous drug Viagra, without a valid or lawful prescription for these controlled substances or dangerous drugs, as set forth in paragraphs 13-15, above.

FIFTH CAUSE FOR DENIAL

(Possession of Controlled Substances)

19. Respondent is subject to disciplinary action pursuant to Code section 4060 and Health and Safety Code section 11350, subdivision (a), for possession of controlled substances without a valid prescription, in that while on duty as a pharmacy technician at CVS Pharmacy from approximately October 3, 2011 to October 3, 2013, Respondent obtained and possessed the controlled substances Norco, without a valid or lawful prescription for these controlled substances, as set forth in paragraphs 13-15, above.

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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 88474, issued to Alvin A. Angeles;
2. Ordering Alvin A. Angeles 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/31/16 Virginia Herold

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SA2014114491