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

11  
12 In the Matter of the Accusation Against:

Case No. 5261

13 **EDWARD J. QUINAGON**  
14 **8789 Leigh Avenue**  
**Spring Valley, CA 91977**

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

15 **Pharmacy Technician Registration No. TCH**  
16 **28249**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about January 28, 1999, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 28249 to Edward J. Quinagon (Respondent). The Pharmacy  
25 Technician Registration expired on March 31, 2014 and was cancelled on July 1, 2014, and has  
26 not been renewed.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states "Every license issued may be  
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

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

14 6. Section 482 of the Code states:

15 Each board under the provisions of this code shall develop criteria to  
16 evaluate the rehabilitation of a person when:

17 (a) Considering the denial of a license by the board under Section 480; or

18 (b) Considering suspension or revocation of a license under Section 490.

19 Each board shall take into account all competent evidence of  
20 rehabilitation furnished by the applicant or licensee.

21 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
22 revoke a license on the ground that the licensee has been convicted of a crime substantially  
23 related to the qualifications, functions, or duties of the business or profession for which the  
24 license was issued.

25 8. Section 493 of the Code states:

26 Notwithstanding any other provision of law, in a proceeding conducted  
27 by a board within the department pursuant to law to deny an application for a  
28 license or to suspend or revoke a license or otherwise take disciplinary action  
against a person who holds a license, upon the ground that the applicant or the  
licensee has been convicted of a crime substantially related to the  
qualifications, functions, and duties of the licensee in question, the record of  
conviction of the crime shall be conclusive evidence of the fact that the  
conviction occurred, but only of that fact, and the board may inquire into the  
circumstances surrounding the commission of the crime in order to fix the  
degree of discipline or to determine if the conviction is substantially related to  
the qualifications, functions, and duties of the licensee in question.

1 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'  
2 and 'registration.'

3 9. Section 4301 of the Code states:

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

8 . . . .

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

12 . . . .

13 (l) The conviction of a crime substantially related to the qualifications, functions,  
14 and duties of a licensee under this chapter. The record of conviction of a violation of  
15 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code  
16 regulating controlled substances or of a violation of the statutes of this state regulating  
17 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional  
18 conduct. In all other cases, the record of conviction shall be conclusive evidence only of  
19 the fact that the conviction occurred. The board may inquire into the circumstances  
20 surrounding the commission of the crime, in order to fix the degree of discipline or, in  
21 the case of a conviction not involving controlled substances or dangerous drugs, to  
22 determine if the conviction is of an offense substantially related to the qualifications,  
23 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a  
24 conviction following a plea of nolo contendere is deemed to be a conviction within the  
25 meaning of this provision. The board may take action when the time for appeal has  
26 elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
27 granting probation is made suspending the imposition of sentence, irrespective of a  
28 subsequent order under Section 1203.4 of the Penal Code allowing the person to  
withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
verdict of guilty, or dismissing the accusation, information, or indictment.

. . . .

### REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, states:

...

(b) When considering the denial of a facility or personal license under  
Section 480 of the Business and Professions Code, the board, in evaluating the  
rehabilitation of the applicant and his present eligibility for licensing or  
registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under  
consideration as grounds for denial.

1 (2) Evidence of any act(s) committed subsequent to the act(s) or  
2 crime(s) under consideration as grounds for denial under Section 480 of the  
Business and Professions Code.

3 (3) The time that has elapsed since commission of the act(s) or  
4 crime(s) referred to in subdivision (1) or (2).

5 (4) Whether the applicant has complied with any terms of parole,  
6 probation, restitution or any other sanctions lawfully imposed against the  
applicant.

7 (5) Evidence, if any, of rehabilitation submitted by the applicant.

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

9 For the purpose of denial, suspension, or revocation of a personal or facility license  
10 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,  
11 functions or duties of a licensee or registrant if to a substantial degree it evidences  
present or potential unfitness of a licensee or registrant to perform the functions  
12 authorized by his license or registration in a manner consistent with the public health,  
safety, or welfare.

### 13 DRUGS

14 12. Hydrocodone/apap is a Schedule III controlled substance as designated by Health and  
15 Safety Code section 11056(e)(3), and is a dangerous drug pursuant to Business and Professions  
16 Code section 4022. Hydrocodone is a narcotic pain reliever.

### 17 COSTS

18 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
19 administrative law judge to direct a licentiate found to have committed a violation or violations of  
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
22 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
23 may be included in a stipulated settlement.

### 24 FIRST CAUSE FOR DISCIPLINE

25 (December 12, 2013 Criminal Conviction for Burglary on July 13, 2012)

26 14. Respondent has subjected his registration to discipline under sections 490 and 4301,  
27 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the  
28 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

1 a. On or about December 12, 2013, in a criminal proceeding entitled *People of the State*  
2 *of California v. Edward Quinagon*, in San Diego County Superior Court, case number  
3 SCD250826, Respondent was convicted on his plea of guilty to violating Penal Code section 459,  
4 second degree burglary, a felony and violation of Health and Safety Code section 11368, forgery  
5 of a narcotic drug prescription, a felony.

6 b. As a result of the convictions, Respondent was sentenced to 60 days in the  
7 custody of the sheriff, with credit for four days, to be served in the Work Release Program.  
8 Respondent was granted three years formal probation, and ordered to pay fees, fines, and  
9 restitution, submit to a Fourth Amendment waiver, and comply with felony probation terms.

10 c. The facts that led to the convictions are that on or about July 13, 2012,  
11 Respondent was employed as a Pharmacy Technician. Without authorization Respondent used  
12 the pharmacy ordering system to order 1,000 hydrocodone pills for his personal use. Respondent  
13 used the fraudulent hydrocodone order either for his own illegal consumption, or to restock the  
14 pharmacy's hydrocodone supply he had previously stolen.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Commission of Acts Involving Dishonesty, Fraud, Deceit & Corruption)**

17 15. Respondent has subjected his registration to discipline under section 4301,  
18 subdivision (f) of the Code for unprofessional conduct in that on or about July 13, 2012  
19 Respondent committed acts involving fraud, deceit, and dishonesty, as described in paragraph 14,  
20 above.

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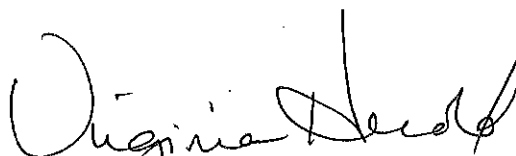
**PRAYER**

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 28249, issued to Edward J. Quinagon;
2. Ordering Edward J. Quinagon 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: \_\_\_\_\_

12/2/14



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

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