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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:

13 **MONA ALICIA CHAVARIN**
14 **1200 Champagne Ct.**
15 **Modesto, CA 95351**

16 **Pharmacy Technician Registration Number TCH**
17 **90408**

18 Respondent.

19 Case No. 5384

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

21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about April 16, 2009, the Board issued Pharmacy Technician Registration
26 Number TCH 90408 to Mona Alicia Chavarin. The registration expired on February 28, 2015
27 and was cancelled on June 7, 2015.

28 **JURISDICTION**

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

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4. Code section 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

5. 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 AND REGULATORY PROVISIONS

6. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct . . . 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. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive

1 evidence of unprofessional conduct. In all other cases, the record of conviction shall
2 be conclusive evidence only of the fact that the conviction occurred. The board may
3 inquire into the circumstances surrounding the commission of the crime, in order to
4 fix the degree of discipline or, in the case of a conviction not involving controlled
5 substances or dangerous drugs, to determine if the conviction is of an offense
6 substantially related to the qualifications, functions, and duties of a licensee under this
7 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
8 contendere is deemed to be a conviction within the meaning of this provision. The
9 board may take action when the time for appeal has elapsed, or the judgment of
10 conviction has been affirmed on appeal or when an order granting probation is made
11 suspending the imposition of sentence, irrespective of a subsequent order under
12 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
13 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
14 dismissing the accusation, information, or indictment

8 (o) Violating or attempting to violate, directly or indirectly, or assisting in
9 or abetting the violation of or conspiring to violate any provision or term of this
10 chapter or of the applicable federal and state laws and regulations governing
11 pharmacy, including regulations established by the board or by any other state or
12 federal regulatory agency.

11 ...

12 (q) Engaging in any conduct that subverts or attempts to subvert an
13 investigation of the board....

14 7. Health and Safety Code section 11153, subdivision (a), states:

15 A prescription for a controlled substance shall only be issued for a
16 legitimate medical purpose by an individual practitioner acting in the usual course of
17 his or her professional practice. The responsibility for the proper prescribing and
18 dispensing of controlled substances is upon the prescribing practitioner, but a
19 corresponding responsibility rests with the pharmacist who fills the prescription.
20 Except as authorized by this division, the following are not legal prescriptions: (1) an
21 order purporting to be a prescription which is issued not in the usual course of
22 professional treatment or in legitimate and authorized research; or (2) an order for an
23 addict or habitual user of controlled substances, which is issued not in the course of
24 professional treatment or as part of an authorized narcotic treatment program, for the
25 purpose of providing the user with controlled substances, sufficient to keep him or her
26 comfortable by maintaining customary use.

22 COST RECOVERY

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

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1 **DRUG CLASSIFICATIONS**

2 9. "Roxicodone", a brand name for oxycodone, is a Schedule II controlled substance
3 pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M). Roxicodone is also a
4 dangerous drug pursuant to Code section 4022 and is used to treat pain.

5 10. "Norco", a brand name for hydrocodone/acetaminophen, is a Schedule III controlled
6 substance pursuant to Health and Safety Code section 11056.¹ Norco is also a dangerous drug
7 pursuant to Code section 4022 and is used to treat pain.

8 **FACTUAL ALLEGATIONS**

9 11. On or about January 13, 2015, pharmacy technician Mona Chavarin ("Chavarin") was
10 arrested by the Modesto Police Department for, among other things, filling altered prescriptions
11 and criminal conspiracy. The report indicated that Lenele Nunez ("Nunez") stole prescription
12 pads belonging to physician assistant R. S. and sold them to Christina Martinez ("Martinez").
13 Martinez forged the prescriptions, and she and Lance Wilson had the prescriptions filled at
14 CVS/Pharmacy #9248 ("CVS #9248") where Chavarin was employed. Chavarin verified the
15 prescriptions through Nunez. Fourteen patient names, 8 actual names and 6 fictional names, were
16 connected to the fraud and approximately 286 prescriptions were issued. The prescriptions were
17 filled for approximately 17,350 oxycodone tablets, 23,760 hydrocodone tablets, and 7,650 tablets
18 of Schedule IV controlled drugs.

19 12. On or about January 13, 2015, the Modesto Police Department Narcotic Enforcement
20 Team ("MNET") and Drug Enforcement Administration ("DEA") agents served a search warrant
21 at Central Valley Pain Management ("CVPM") in Modesto, California, where
22 R. S. was employed as a physician assistant. The search warrant was part of the investigation of
23 the fraudulent prescriptions; prescriptions were forged for oxycodone, mixed amphetamine salts,
24 hydrocodone/acetaminophen (H/APAP), alprazolam, phentermine, and carisoprodol. Detective
25 M., the lead investigator on the MNET, informed Board Inspector H. ("inspector") that Nunez

26 _____
27 ¹ During the time period of the Board's investigation, hydrocodone/acetaminophen 10/325
28 mg was a Schedule III controlled substance. The drug was reclassified as a Schedule II controlled
substance effective October 6, 2014.

1 was the officer manager for CVPM. All of the prescription forms were forged using R. S.'s
2 name. Martinez brought the fraudulent prescriptions to CVS #9248 when Chavarin was on duty.
3 Martinez or Wilson returned at a later time to receive the dispensed medication from Chavarin.
4 MNET identified 14 fraudulent patient records at CVS #9248.

5 13. On or about August 29, 2016, in *United States of America v. Mona Alicia Chavarin*,
6 Eastern District of California, United States District Court; Case No. 1:15CR00046-003,
7 respondent was convicted of a violation of 21 U.S.C. section 846, 841 (a) (1) and 841 (b) (1) (c),
8 Conspiracy to distribute Oxycodone and Hydrocodone. Respondent was sentenced to 48 months
9 of prison time and upon release 36 months of supervised release.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Act Involving Moral Turpitude, Dishonesty, fraud, and Deceit)**

12 14. Respondent Chavarin is subject to disciplinary action pursuant to Code section 4301
13 subdivision (f) for unprofessional conduct, for acts involving moral turpitude, dishonesty, fraud,
14 and deceit, in that she participated in a scheme to process fraudulent prescriptions in order to gain
15 access to obtain prescription drugs as set forth more specifically above in paragraphs 11 to 13.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct-Violation of Pharmacy Law)**

18 15. Respondent Chavarin is subject to disciplinary action pursuant to Code section 4301
19 subdivision (j) and (o) for unprofessional conduct for violating pharmacy laws and regulations, in
20 that she participated in a scheme to process fraudulent prescriptions in order to gain access to and
21 to obtain prescription drugs as set forth more specifically above in paragraphs 11 to 13.

22
23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct- Subverting an Investigation)**

25 16. Respondent Chavarin is subject to disciplinary action pursuant to Code section 4301,
26 subdivision (q) for unprofessional conduct in that she subverted or attempted to subvert the
27 Board's investigation. Respondent failed to comply with Board request for information on June
28 29, 2015 and July 6, 2015.

THIRD CAUSE FOR DISCIPLINE
(Conviction of a Crime)

17. Respondent Chavarin is subject to disciplinary action pursuant to Code section 4301, subdivision (l) in that she was convicted of a crime substantially related to the practice of a pharmacy technician, the circumstances are set forth above in paragraph 13.

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 90408 issued to Mona Alicia Chavarin;
2. Ordering Mona Alicia Chavarin 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

5/16/17



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

SA2016103131