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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. 5412

12 **FRANCES DUPUIS**  
13 **1311 Isabella Way**  
14 **Vista, CA 92084**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
16 **52185**

Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about October 9, 2003, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 52185 to Frances Dupuis (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on October 31, 2015, unless renewed.

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.

12 **STATUTORY PROVISIONS**

13 6. Section 4301 of the Code states:

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

17 . . . .

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

21 (g) Knowingly making or signing any certificate or other document that  
22 falsely represents the existence or nonexistence of a state of facts.

23 (h) The administering to oneself, of any controlled substance, or the use of  
24 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
25 dangerous or injurious to oneself, to a person holding a license under this chapter,  
26 or to any other person or to the public, or to the extent that the use impairs the  
27 ability of the person to conduct with safety to the public the practice authorized by  
28 the license.

26 . . . .

27 (j) The violation of any of the statutes of this state, of any other state, or of  
28 the United States regulating controlled substances and dangerous drugs.

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2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
3 abetting the violation of or conspiring to violate any provision or term of this  
4 chapter or of the applicable federal and state laws and regulations governing  
5 pharmacy, including regulations established by the board or by any other state or  
6 federal regulatory agency.

7  
8 (q) Engaging in any conduct that subverts or attempts to subvert an  
9 investigation of the board.

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14 7. Section 4059 of the Code states:

15 (a) A person may not furnish any dangerous drug, except upon the  
16 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
17 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
18 dangerous device, except upon the prescription of a physician, dentist, podiatrist,  
19 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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24 8. Section 4060 of the Code states:

25 No person shall possess any controlled substance, except that furnished to a  
26 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
27 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
28 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. 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.

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

9. Section 4327 of the Code states that any person who, while on duty, sells, dispenses  
or compounds any drug while under the influence of any dangerous drug or alcoholic beverages  
shall be guilty of a misdemeanor.



1 April 17, 2014, the PIC discovered another shortage of hydrocodone/apap 10/325 mg; thus,  
2 covert cameras were installed in the pharmacy on April 28, 2014.

3 16. On May 6, 2014, after discovering another shortage of hydrocodone/apap 10/325 mg,  
4 the surveillance videos were reviewed. The video showed Respondent diverting  
5 hydrocodone/apap 10/325 mg from the pharmacy during the PIC's lunch break on May 5, 2014.  
6 The video also showed Respondent putting her hand to her mouth to consume something and then  
7 drinking from a cup.

8 17. On May 9, 2014, Respondent was interviewed by her employer. During the  
9 interview, Respondent admitted to stealing 400 tablets of hydrocodone/apap 10/325 mg on four  
10 occasions. She admitted that she readjusted the on hand count in the database the four times that  
11 she had diverted drugs from the pharmacy in order to cover the shortages she was causing.  
12 Respondent stated that she stole the pills because she was frustrated from being transferred from  
13 another store. She stated that she had brought into the pharmacy approximately 40 pills of Norco  
14 from her own supply and put them in the Norco stock bottle at the pharmacy to replace some of  
15 the drugs that she stole. Respondent also admitted that on May 5, 2014, she consumed one of the  
16 pills that she had stolen while at work. She agreed to reimburse Vons in the amount of \$267.96  
17 for the drugs she stole.

18 18. Respondent also signed a written statement under penalty of perjury for Vons wherein  
19 she admitted that she took Norco from the pharmacy when her own prescription would "get low."  
20 Respondent admitted in the statement that she stole "roughly" "400 pills in 4 months" and that  
21 she "adjusted the computer after [she] took the 4 times (sic)." She also agreed to pay Vons  
22 \$267.96 for the drugs she stole. Respondent was terminated from her employment and the  
23 incident was reported to the Board of Pharmacy.

24 19. The Board of Pharmacy initiated an investigation based on the incident report  
25 received from Vons. The investigation revealed that at times, staff noticed that Respondent  
26 appeared disoriented, out of focus, and not attentive at work. Respondent was also interviewed  
27 during the course of the investigation. Respondent misrepresented the facts of her diversion  
28

1 activities both verbally and in a written statement under penalty of perjury to the Board of  
2 Pharmacy.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Dishonest Act)**

5 20. Respondent has subjected her license to disciplinary action under section 4301,  
6 subdivision (f) of the Code in that Respondent committed acts involving dishonesty, fraud, deceit,  
7 or corruption, as detailed in paragraphs 14 through 19 which are incorporated herein by reference,  
8 and as follows:

9 a. Respondent stole controlled substances from her employer while working as a  
10 pharmacy technician;

11 b. Respondent adjusted controlled substance computer records four times after diverting  
12 drugs from the pharmacy in order to cover the shortages she caused;

13 c. Respondent misrepresented the facts of her diversion activities both verbally and in a  
14 written statement under penalty of perjury to the Board of Pharmacy.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Use of Controlled Substances in Dangerous Manner)**

17 21. Respondent has subjected her license to disciplinary action under section 4301,  
18 subdivision (h) of the Code in that Respondent administered to herself controlled substances to  
19 the extent or in a manner as to be dangerous or injurious to herself or the public, or to the extent  
20 that it impaired her ability to practice safely, as evidenced by Respondent's admissions that while  
21 working as a pharmacy technician, she consumed illegally hydrocodone/apap 10/325 mg, as  
22 detailed in paragraphs 14 through 19, above, and which are incorporated herein by reference.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Violating Statutes Regulating Controlled Substances)**

25 22. Respondent has subjected her license to disciplinary action under section 4301,  
26 subdivision (j) of the Code for violation of Health and Safety Code sections 11350 and 11170 in  
27 that Respondent illegally obtained and administered to herself, hydrocodone/apap 10/325 mg that  
28

1 she stole from Vons, as detailed in paragraphs 14 through 19, above, and which are incorporated  
2 herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Violating Laws Governing Pharmacy)**

5 23. Respondent has subjected her license to disciplinary action under section 4301,  
6 subdivision (o) of the Code for violation of Code section 4060 in that Respondent illegally  
7 possessed controlled substances without a prescription, as evidenced by Respondent's  
8 admissions that she stole Norco from Vons, as detailed in paragraphs 14 through 19, above, and  
9 which are incorporated herein by reference.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Making and Signing a Document that Falsely Represents Facts)**

12 24. Respondent has subjected her license to disciplinary action under section 4301,  
13 subdivisions (g) of the Code in that Respondent knowingly made or signed a document that  
14 falsely represented a state of facts, when Respondent adjusted controlled substance computer  
15 records four times after diverting drugs from the pharmacy in order to cover the shortages she  
16 caused and when she prepared and signed a statement under penalty of perjury that  
17 misrepresented the facts of her diversion activities to the Board of Pharmacy, as detailed in  
18 paragraphs 14 through 19, above, and which are incorporated herein by reference.

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Subverting an Investigation)**

21 25. Respondent has subjected her license to disciplinary action under section 4301,  
22 subdivisions (q) of the Code in that Respondent engaged in conduct that subverted or attempted to  
23 subvert an investigation of the Board when she misrepresented the facts of her diversion activities  
24 at Vons, as detailed in paragraphs 14 through 19, above, and which are incorporated herein by  
25 reference.

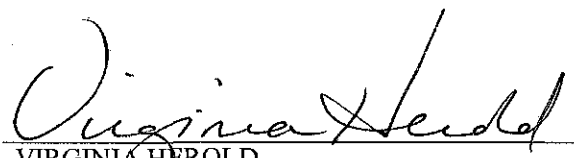
26 **PRAYER**

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

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1. Revoking or suspending Pharmacy Technician Registration Number TCH 52185, issued to Frances Dupuis;
2. Ordering Frances Dupuis 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: 5/28/15

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

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