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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. 5584

13 **ANJELIKA DIORRE PERRY**  
941 S. Osage Ave., Apt. 211  
14 **Inglewood, CA 90301**

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

15 **Pharmacy Technician Registration No. TCH**  
16 **120303**

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 April 17, 2012, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 120303 to Anjelika Diorre Perry (Respondent). The Pharmacy  
24 Technician Registration was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on March 31, 2016, unless renewed. Pursuant to an Interim Suspension  
26 Order issued on November 18, 2015, Respondent is currently prohibited from practicing as a  
27 pharmacy technician.

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1 **JURISDICTION**

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

5 4. Section 4300.1 of the Code states:

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

11 **PHARMACY LAW**

12 5. Section 4300 of the Code states:

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

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

17 (1) Suspending judgment.

18 (2) Placing him or her upon probation.

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

20 (4) Revoking his or her license.

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

23 . . ."

24 6. Section 4301 of the Code states:

25 "The board shall take action against any holder of a license who is guilty of unprofessional  
26 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

27 Unprofessional conduct shall include, but is not limited to, any of the following:

28 . . .

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

4 . . .

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

7 . . .

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

12 . . .”

13 7. Section 4022 of the Code states

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

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

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

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

23 8. Section 4059, subdivision, (a) of the Code states:

24 "A person may not furnish any dangerous drug, except upon the prescription of a physician,  
25 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A  
26 person may not furnish any dangerous device, except upon the prescription of a physician,  
27 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.”

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1 authorized narcotic treatment program, for the purpose of providing the user with controlled  
2 substances, sufficient to keep him or her comfortable by maintaining customary use.”

3 12. Health and Safety Code section 11173, subdivision (a), states:

4 “No person shall obtain or attempt to obtain controlled substances, or procure or attempt to  
5 procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
6 misrepresentation , or subterfuge; or (2) by the concealment of a material fact.”

7 14. Health and Safety Code section 11350 states:

8 “(a) Except as otherwise provided in this division, every person who possesses (1) any  
9 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
10 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
11 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
12 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
13 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
14 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of  
15 Section 1170 of the Penal Code.”

### 16 COSTS

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

### 23 DRUGS

24 14. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance  
25 pursuant to Health and Safety Code section 11057, subdivision (d)(1) and is a dangerous drug  
26 pursuant to Business and Professions Code section 4022. Alprazolam is primarily used for the  
27 treatment of anxiety.

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**FACTS**

1  
2           15. On June 21, 2015, Pharmacist-in-Charge Liana Pham ("PIC Pham") of CVS  
3 Pharmacy (CVS), pursuant to her normal practice, reviewed the balance on hand reports for  
4 various drugs. In review of the balance on hand report for the period June 13, 2014 to June 20,  
5 2015, she discovered a negative quantity of 1,400 alprazolam 2mg tablets. Following this  
6 discovery, PIC Pham conducted a stock on hand count of alprazolam 2mg, reviewed invoices for  
7 alprazolam 2mg, and reviewed dispensing information for alprazolam 2mg. She confirmed that  
8 1,400 tablets were missing. Accordingly, on June 24, 2015, PIC Pham reported the loss to her  
9 supervisor and began to conduct daily counts of the medication.

10           16. In order to determine the source of the loss, CVS readjusted its security cameras in  
11 the pharmacy for better observation. CVS also compared staffing schedules to invoices for the  
12 ordering and receiving of alprazolam 2mg. There was a correlation between the days that  
13 Respondent had worked and the majority of the days that the ordering and delivery of alprazolam  
14 2mg had occurred.

15           17. On July 22, 2015, Respondent was interviewed by CVS Regional Pharmacy  
16 Diversion Manager Robert Wiltfang ("Mr. Wiltfang") in which she admitted to diverting 18  
17 bottles of alprazolam between May and June 2015. In a written statement to Mr. Wiltfang,  
18 Respondent claimed that she took the medication because in May 2015, she had a conversation  
19 with a man known only as "Get Down" on the rooftop of CVS Pharmacy #09985 and the man  
20 threatened to kidnap her son if she did not provide him with alprazolam. Respondent would meet  
21 with "Get Down" about 2 times a week in various parking lots to deliver the drugs, usually 2  
22 bottles at a time. In total, Respondent admitted to stealing 18 bottles, which equates to 1,800  
23 tablets. Respondent was able to divert the medication by placing the bottles in her pants pocket.

24           18. On July 24, 2015, CVS's final reconciliation report from May 1, 2014 to July 22,  
25 2015 showed a shortage of 2,180 tablets of alprazolam 2mg.

26           19. On July 24, 2015, the Board was notified that Respondent had caused the loss of  
27 1,800 tablets of alprazolam 2mg from CVS Pharmacy #09985.

28

20. After receipt of the theft notification, a Board Inspector conducted an inspection of CVS Pharmacy #09985 on August 19, 2015. The Board Inspector gathered materials to conduct his own audit of alprazolam 2mg, such as dispensing reports, acquisition invoices, returns invoices, etc. Based on his own independent audit, the Board Inspector determined there was a loss of 2,140 tablets of alprazolam 2mg between May 1, 2014 and July 22, 2015. He also determined that the vast majority of the losses occurred between May 1, 2015 and July 22, 2015, which is during the time period that Respondent admitted to stealing the 18 bottles (1,800 tablets).

#### **FIRST CAUSE FOR DISCIPLINE**

##### **(Unprofessional Conduct: Act Involving Moral Turpitude, Dishonesty, or Deceit)**

21. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision (f), in that Respondent engaged in an act involving moral turpitude, dishonesty, or deceit, by her theft of 1800 tablets of alprazolam. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 16 through 17, and 19 through 20, inclusive, as though set forth fully herein.

#### **SECOND CAUSE FOR DISCIPLINE**

##### **(Possession of Controlled Substance)**

22. Respondent is subject to disciplinary action under sections 4300, 4301 and 4060 of the Code, in that she possessed controlled substances that were not furnished to her upon prescription of a physician. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 16 through 17, and 19 through 20, inclusive, as though set forth fully herein.

#### **THIRD CAUSE FOR DISCIPLINE**

##### **(Unprofessional Conduct: Violation of Drug Statutes)**

23. Respondent is subject to disciplinary action under sections 4300, and 4301, subdivision (j), for violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs, including Health and Safety Code sections 11153, subdivision (a), Health and Safety Code section 11173, subdivision (a), and

1 Health and Safety Code section 11350. Complainant refers to, and by this reference incorporates,  
2 the allegations set forth above in paragraphs 16 through 17, and 19 through 20, inclusive, as  
3 though set forth fully herein.

4 **FOURTH CAUSE FOR DISCIPLINE**

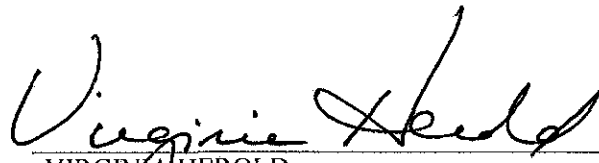
5 **(Unprofessional Conduct: Violation of Federal and/or State Pharmacy Law)**

6 24. Respondent is subject to disciplinary action under sections 4300 and 4301,  
7 subdivision (o), for violation of federal and/or state pharmacy law, including sections 4059 and  
8 4060 of the Code. Complainant refers to, and by this reference incorporates, the allegations set  
9 forth above in paragraphs 16 through 17, and 19 through 20, inclusive, as through set forth fully  
10 herein.

11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 120303,  
15 issued to Anjelika Diorre Perry;
- 16 2. Ordering Anjelika Diorre Perry to pay the Board of Pharmacy the reasonable costs of  
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20  
21  
22 DATED: 11/23/15   
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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