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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. 5661

12 **KRISTINA LUREE BINGHAM**

13 501 Mussel Shoals  
Lake Shasta, CA 96019

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **108081**

16 Respondent.

17  
18 Virginia Herold ("Complainant") alleges:

19 **PARTIES**

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

22 2. On or about March 4, 2011, the Board issued Pharmacy Technician Registration Number  
23 TCH 108081 to Kristina Luree Bingham ("Respondent"). The pharmacy technician registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 April 30, 2016, unless renewed.

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2 (h) The administering to oneself, of any controlled substance, or the use  
3 of any dangerous drug or of alcoholic beverages to the extent or in a manner  
4 as to be dangerous or injurious to oneself, to a person holding a license under  
5 this chapter, or to any other person or to the public, or to the extent that the  
6 use impairs the ability of the person to conduct with safety to the public the  
7 practice authorized by the license.”

8 ...  
9 (j) The violation of any of the statutes of this state, or any other state, or of the  
10 United States regulating controlled substances and dangerous drugs.

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

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18 7. Code section 4021 states:

19 “Controlled Substance’ means any substance listed in Chapter 2 (commencing with section  
20 11053) of Division 10 of the Health and Safety Code.”

21 8. Code section 4022 states:

22 “Dangerous drug” or “dangerous device” means any drug or device unsafe for  
23 self-use in humans or animals, and includes the following:

24 (a) Any drug that bears the legend: “Caution: federal law prohibits dispensing  
25 without prescription,” “Rx only,” or words of similar import.

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

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

9. Code section 4059 states in pertinent part:

“No person shall furnish any dangerous drug, except upon the prescription of a physician,  
dentist, podiatrist, optometrist, or veterinarian...”

10. Code section 4060 states in pertinent part:

No person shall possess any controlled substance, except that furnished to a

1 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
2 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
3 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
4 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to  
5 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
6 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
7 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

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11. Health and Safety Code section 11170 states, "No person shall prescribe, administer,  
or furnish a controlled substance for himself."

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

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

13. Health and Safety Code section 11350, subdivision (a) provides, that "except as  
otherwise provided in this division, every person who possesses (1) any controlled  
substance as specified in subdivision (b) or (c), or 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 substances 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 practice in this state, shall be  
punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code."

#### COST RECOVERY

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

#### DRUGS

15. *Ambien*, a trade name for zolpidem, is a Schedule IV controlled substance as  
designated by Health and Safety Code section 11057(d)(32), and a dangerous drug pursuant to  
Code section 4022.

16. *Clonazepam* is a Schedule IV controlled substance as designated by Health and  
Safety Code section 11057(d)(7), and a dangerous drug pursuant to Code section 4022.

17. *Diazepam*, is a Schedule IV controlled substance as designated by Health and Safety  
Code section 11057(d)(9), and a dangerous drug pursuant to Code section 4022.

1 18. *Lorazepam* is a Schedule IV controlled substance as defined by Health and Safety  
2 Code section 11057(d)(16), and a dangerous drug pursuant to Code section 4022.

3 19. *Norco* is a brand of hydrocodone bitartrate and acetaminophen, is designated a  
4 Schedule III controlled substance by Health and Safety Code section 11056(e)(4), and is a  
5 dangerous drug pursuant to Business and Professions Code section 4022. It is designated a  
6 Schedule II controlled substance by the Code of Federal Regulations, Title 21, section  
7 1308.12(b)(1)(vi).

8 **FACTUAL BACKGROUND**

9 20. At the time of the events set forth herein, Respondent worked as a Pharmacy  
10 Technician at CVS Pharmacy #3911 ("CVS"), located at 1060 E. Cypress Avenue, Redding,  
11 California.

12 21. On or about March 10, 2015, in the course of an investigation into drug shortages by  
13 CVS management, Respondent admitted that between in or around September 2014 and February  
14 2015, while working as a pharmacy technician at CVS she stole from CVS clonazepam,  
15 lorazepam, zolpidem, and hydrocodone/acetaminophen for her own personal use. In a subsequent  
16 interview on or about July 15, 2015, Respondent admitted to a Board investigator that she stole  
17 from CVS while working there as a pharmacy technician, diazepam, clonazepam, lorazepam,  
18 zolpidem, and hydrocodone/ acetaminophen for her own personal use.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Moral Turpitude, Dishonesty, Corruption)**

21 22. Respondent is subject to disciplinary action for unprofessional conduct pursuant  
22 to Code section 4301(f), in that between sometime unknown in 2014 and February 2015,  
23 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, and/or  
24 corruption, as set forth above in paragraphs 20 and 21.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unlawful Possession of Controlled Substances)**

27 23. Respondent is subject to disciplinary action for unprofessional conduct pursuant  
28 to Code section 4301, subdivision (j) and 4060 in that between sometime unknown in 2014 and

1 February 2015, Respondent possessed controlled substances (diazepam, clonazepam, lorazepam,  
2 zolpidem, and hydrocodone/ acetaminophen) without authorization or a valid prescription  
3 therefor, as set forth above in paragraphs 20 and 21.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Unlawful Self-Administration of Controlled Substances)**

6 24. Respondent is subject to discipline under Code section 4301, subdivision (h), in  
7 that on multiple instances between sometime unknown in 2014 and February 2015, Respondent  
8 administered to herself controlled substances (diazepam, clonazepam, lorazepam, zolpidem, and  
9 hydrocodone/ acetaminophen) without a prescription, as more fully set forth above in paragraphs  
10 20 and 21.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unlawful Furnishing of Controlled Substances)**

13 25. Respondent is subject to discipline under Code sections 4301, subdivision (j), and  
14 section 4059, in that on multiple instance between sometime unknown in 2014 and February  
15 2015, Respondent furnished to herself controlled substances and dangerous drugs (diazepam,  
16 clonazepam, lorazepam, zolpidem, and hydrocodone/ acetaminophen) without a valid  
17 prescription, as more fully set forth above in paragraphs 20 and 21.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Violation of Statutes Regulating Controlled Substances and Dangerous Drugs)**

20 26. Respondent is subject to disciplinary action pursuant to Code section 4301,  
21 subdivision (j), on the grounds of unprofessional conduct, in that, between sometime unknown in  
22 2014 and February 2015, while on duty as a registered pharmacy technician at CVS, Respondent  
23 violated statutes regulating controlled substances and dangerous drugs, as follows:

24 a. **Health & Safety Code section 11170:** Respondent furnished and administered to  
25 herself, clonazepam, diazepam, lorazepam, zolpidem, and hydrocodone/acetaminophen.

26 b. **Health & Safety Code section 11173, subdivision (a):** Respondent obtained  
27 clonazepam, diazepam, lorazepam, zolpidem, and hydrocodone/acetaminophen, controlled  
28 substances and dangerous drugs, by fraud, deceit, misrepresentation, or subterfuge.

1 c. Health & Safety Code section 11350, subdivision (a): Respondent possessed  
2 clonazepam, diazepam, lorazepam, zolpidem, and hydrocodone/acetaminophen, controlled  
3 substances, without authorization or a valid order or prescription therefor.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 **(Violating Laws and Regulations Governing Pharmacy)**

6 27. Respondent is subject to discipline under Code section 4301, subdivision (o), on the  
7 grounds of unprofessional conduct, in that, between sometime unknown in 2014 and February  
8 2015, Respondent violated the laws and regulations governing pharmacy, as set forth above in  
9 paragraphs 20 through 26, and their subparts.

10 **PRAYER**

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

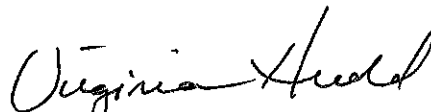
13 1. Revoking or suspending Pharmacy Technician Registration No. TCH 108081, issued  
14 to Kristina Luree Bingham;

15 2. Ordering Kristina Luree Bingham to pay the Board of Pharmacy the reasonable costs  
16 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
17 section 125.3; and,

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19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: 3/19/16



22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant

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