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

11 In the Matter of the Accusation Against:	Case No. 5762
12 SALLY MARIE SCARRY	
13 6253 Carlow Dr. 3	
14 Citrus Heights, CA 95621	A C C U S A T I O N
15 Pharmacy Technician Registration No. TCH	
16 92687	
Respondent.	

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (“Complainant”) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy (“Board”), Department of Consumer Affairs.
21 2. On or about August 31, 2009, the Board issued Pharmacy Technician Registration
22 Number TCH 92687 to Sally Marie Scarry (“Respondent”). The pharmacy technician registration
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 February 28, 2017, unless renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

- 26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (“Code”) unless otherwise
28 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.

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 or whose license has been procured by fraud or misrepresentation or issued by mistake. 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.

...

(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 evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense

1 substantially related to the qualifications, functions, and duties of a licensee under this
2 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
3 contendere is deemed to be a conviction within the meaning of this provision. The
4 board may take action when the time for appeal has elapsed, or the judgment of
5 conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under
7 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
8 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
9 dismissing the accusation, information, or indictment

6 COST RECOVERY

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

11 FIRST CAUSE FOR DISCIPLINE

12 (Criminal Conviction)

13 8. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
14 Code section 4301, subdivision (I), in that on or about February 25, 2015, in the criminal
15 proceeding entitled *People vs. Sally Marie Scarry* (Sacramento County Super. Ct., Case No.
16 14M06848), Respondent was convicted by the Court, on her plea of nolo contendere, of violating
17 Penal Code section 273a, subdivision (b) (child endangerment), a misdemeanor, a crime
18 substantially related to the qualifications, functions, and duties of a pharmacy technician. The
19 imposition of Respondent's sentence was suspended and Respondent was placed on probation for
20 three (3) years on terms and conditions, including that she obey all laws.

21 9. The circumstances of the above crime are as follows: On or about August 22, 2014,
22 Citrus Heights Police Department ("CHPD") officers were dispatched to Respondent's residence
23 to conduct a welfare check of her two minor children. Respondent had come to the CHPD earlier
24 that day and reported that some people were following her from her home while she went to a
25 restaurant, and all over town while she drove.¹ Once the officers determined that the residence
26 was clear, they began their welfare check. Respondent's two minor children were not at the

27 ¹ Respondent had come to the CHPD various times before to report that people were
28 following her and breaking into her residence, which was determined to be unfounded.

1 residence. The officers found that the residence was uninhabitable for the children in that it was
2 extremely dirty and unkempt (the wallpaper in the kitchen was black and there was dirt, trash, and
3 clothing all over the carpet); the upstairs bathroom was filthy, and the toilet was not working and
4 contained urine and feces; and the oven was not working. One of the officers called Child
5 Protective Services (“CPS”) to place Respondent’s children into protective custody. The children
6 were picked up from school and driven to the CHPD. The officers returned to the CHPD and met
7 with the children. The children told the officers that various items in their house were
8 “destroyed,” including the oven. The children indicated that they only ate finger foods. Later,
9 the children were released to CPS custody.

10 10. On or about September 22, 2015, CHPD officers conducted a probation
11 search/welfare check of Respondent’s residence. Upon arrival, the officers found that the
12 residence was unsanitary and unhealthy for Respondent’s two minor children. The upstairs toilet
13 was flooded with feces sitting in it; and there were exposed wires, trash, and filth in the children’s
14 bedrooms as well as dirty mattresses with no sheets, comforters, or blankets. The officers placed
15 Respondent under arrest for violating Penal Code sections 273a, subdivision (b), and 1203.2
16 (violation of probation). One of the officers called CPS and the children were taken into
17 protective custody.

18 11. On or about July 8, 2016, Respondent admitted at her probation hearing that she was
19 in violation of her probation. Respondent’s probation was modified and she was placed on
20 formal probation for four years on terms and conditions, including that she attend parenting
21 classes for fifty-two weeks.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

24 12. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
25 Code section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude,
26 dishonesty, fraud, deceit, or corruption, as set forth in paragraphs 8 through 10 above.

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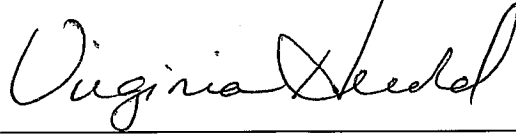
PRAYER

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 92687, issued to Sally Marie Scarry;
2. Ordering Sally Marie Scarry to pay the Board of Pharmacy the reasonable costs of 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: _____

8/22/16



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