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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:
12 **FRANCINE JENNIE JOSEPHSON**
13 **901 Via Pajaro**
14 **Fairfield, CA 94534-1525**
15 **Pharmacy Technician Registration No. TCH**
6056
16 Respondent.

Case No. 5946

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about March 23, 1993, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 6056 to Francine Jennie Josephson (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought in
25 this Accusation and will expire on September 30, 2018, unless renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
28 Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code unless otherwise indicated.

2 4. Section 4300 of the Code states, in pertinent part:

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

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

7 "(1) Suspending judgment.

8 "(2) Placing him or her upon probation.

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

10 "(4) Revoking his or her license.

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

13 ...

14 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
15 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
16 shall have all the powers granted therein. The action shall be final, except that the propriety of the
17 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
18 Procedure."

19 5. Section 4300.1 of the Code states:

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

25 STATUTORY PROVISIONS

26 6. Section 4059 of the Code states, in pertinent part:

27 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
28 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section

1 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
2 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
3 3640.7."

4 7. Section 4060 of the Code states, in pertinent part:

5 "No person shall possess any controlled substance, except that furnished to a person upon
6 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
7 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
8 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
9 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
10 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
11 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

12 8. Section 4301 of the Code states, in pertinent part:

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

16 ...

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

20 ...

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

23 COST RECOVERY PROVISION

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

28

1 DRUGS

2 10. Adipex-P, a brand name for phentermine, is a dangerous drug under Code section
3 4022 and a Schedule IV controlled substance under Health and Safety Code section 10057(f)(4).
4 It is used as an appetite suppressant.

5
6 FACTUAL BACKGROUND

7 11. On or about March 31, 2015, while working as a pharmacy technician at John Muir
8 Medical Center in Concord, Respondent, without a valid prescription or other authorization,
9 ordered the purchase and delivery of 300 tablets of 37.5 mg Adipex-P (three bottles containing
10 100 tablets each). Records showed the Adipex-P was delivered to the hospital, but hospital staff
11 could not locate the medication in their inventory.

12 FIRST CAUSE FOR DISCIPLINE
13 (Violation of Laws Pertaining to Dangerous Drugs or Controlled Substances)
14 (Bus. & Prof. Code, §§ 4059, 4060, and 4301, subd. (j))

15 12. Respondent has subjected her pharmacy technician registration to discipline because
16 she violated laws pertaining to dangerous drugs or controlled substances (Bus. & Prof. Code, §
17 4301, subd. (j)) in that she furnished a dangerous drug without a prescription (Bus. & Prof. Code,
18 § 4059) and unlawfully possessed a controlled substance (Bus. & Prof. Code, § 4060). The
19 circumstances are described in paragraph 11, above.

20 SECOND CAUSE FOR DISCIPLINE
21 (Dishonesty, Fraud, or Deceit)
22 (Bus. & Prof. Code, § 4301, subd. (f))

23 13. Respondent has subjected her pharmacy technician registration to discipline because
24 she committed an act involving dishonesty, fraud, or deceit (Bus. & Prof. Code, § 4301, subd. (f)).
25 The circumstances are described in paragraph 11, above.

26 PRAYER

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

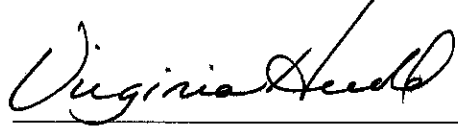
1. Revoking or suspending Pharmacy Technician Registration Number TCH 6056, issued
to Francine Jennie Josephson;

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2. Ordering Francine Jennie Josephson 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: 7/1/17



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

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