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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:
12 **SELENA CHRISTINE YEPEZ**
22057 Aleut Road
13 Apple Valley, CA 92308
14 Pharmacy Technician Registration
No. TCH 138506
15
16 Respondent.

Case No. 5947
A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
20 the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
21 2. On or about February 20, 2014, the Board issued Pharmacy Technician Registration
22 No. TCH 138506 to Selena Christine Yopez (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and will
24 expire on March 31, 2017, unless renewed.

25 **JURISDICTION**

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

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1 4. Section 4300 provides in pertinent part, that every license issued by the Boards is
2 subject to discipline, including suspension or revocation.

3 5. Section 4300.1 states:

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

9 **STATUTORY PROVISIONS**

10 6. Section 4301 states, in pertinent part:

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

14

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

18

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

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

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7. Section 4060 states:

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

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

COST RECOVERY

9. 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, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 10. **CONTROLLED SUBSTANCE AND/OR DANGEROUS DRUGS**

4 a. "Norco," is the brand name for the combination narcotic, Hydrocodone and
5 Acetaminophen, and is a Schedule II controlled substance pursuant to Health and Safety Code
6 section 11055(b)(1)(I) and is categorized as a dangerous drug pursuant to section 4022.

7 b. "Soma," is a brand name for carisoprodol, and is a Schedule IV controlled substance
8 pursuant to the Department of Justice Controlled Substance Act and is categorized as a dangerous
9 drug pursuant to section 4022.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Acts Involving Dishonesty, Fraud, Deceit, or Corruption)**

12 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
13 on or about December 21, 2015, while employed as a pharmacy technician working at CVS
14 #9650, in Victorville, CA, Respondent admitted she committed acts involving dishonesty, fraud,
15 deceit, or corruption with the intent to substantially benefit herself, or substantially injure another
16 when she admitted to taking 10 generic Norco tablets and 20 generic Soma tablets from the
17 pharmacy drug stock for self- use. Subsequently, San Bernardino County Sheriff's deputies were
18 called and Respondent was arrested for violating Penal Code section 490.5/4588 (retail petty
19 theft).

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Use of a Controlled Substance)**

22 12. Respondent is subject to disciplinary action under section 4301, subdivision (h) and (j),
23 in that, Respondent by her own admission used a controlled substance and/or dangerous drug.
24 Complainant refers to, and by this reference incorporates, the allegations set forth above in
25 paragraph 11, as though set forth fully.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Illegally Obtained or Possessed Controlled Substances)**

3 13. Respondent is subject to disciplinary action under section 4301, subdivision (j), for
4 violating sections 4060, in that Respondent illegally obtained or possessed dangerous drugs
5 and/or controlled substances. Complainant refers to, and by this reference incorporates, the
6 allegations set forth above in paragraph 11, as though set forth fully.

7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacy Technician Registration Number TCH 138506,
11 issued to Selena Christine Yepez;
- 12 2. Ordering Selena Christine Yepez to pay the Board of Pharmacy the reasonable costs
13 of the investigation and enforcement of this case, pursuant to Business and Professions Code
14 section 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.

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17
18 DATED: 3/7/17



19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 *Complainant*

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