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

11  
12 In the Matter of the Accusation Against:

Case No. 5951

13 **ELIZABETH ASHLEY BECERRA**  
14 **1794 Ohio Street**  
**Riverside, CA 92507**

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

15 **Pharmacy Technician Registration**  
16 **No. TCH 126156**

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 6, 2012, the Board issued Pharmacy Technician Registration  
24 Number TCH 126156 to Elizabeth Ashley Becerra (Respondent). The Pharmacy Technician  
25 Registration expired on January 31, 2016, and was not renewed. The Pharmacy Technician  
26 Registration was cancelled on May 1, 2016.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a) of the Code states: "Every license issued may be  
6 suspended or revoked."

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to evaluate the  
15 rehabilitation of a person when:

16 (a) Considering the denial of a license by the board under Section 480; or

17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation  
19 furnished by the applicant or licensee.

20 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
21 revoke a license on the ground that the licensee has been convicted of a crime substantially  
22 related to the qualifications, functions, or duties of the business or profession for which the  
23 license was issued.

24 8. Section 493 of the Code states:

25 Notwithstanding any other provision of law, in a proceeding conducted by a board  
26 within the department pursuant to law to deny an application for a license or to suspend  
27 or revoke a license or otherwise take disciplinary action against a person who holds a  
28 license, upon the ground that the applicant or the licensee has been convicted of a crime  
substantially related to the qualifications, functions, and duties of the licensee in  
question, the record of conviction of the crime shall be conclusive evidence of the fact  
that the conviction occurred, but only of that fact, and the board may inquire into the  
circumstances surrounding the commission of the crime in order to fix the degree of

1 discipline or to determine if the conviction is substantially related to the qualifications,  
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority," and  
4 "registration."

5 9. Section 4022 of the Code states

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

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

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

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

16 10. Section 4059 of the Code states, in pertinent part, that a person may not furnish any  
17 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
18 veterinarian, or naturopathic doctor.

19 11. Section 4060 of the Code provides, in pertinent part, that no person shall possess any  
20 controlled substance, except that furnished to a person upon the prescription of a physician,  
21 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

22 12. Section 4301 of the Code states:

23 The board shall take action against any holder of a license who is guilty of  
24 unprofessional conduct or whose license has been procured by fraud or misrepresentation  
25 or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of  
26 the following:

27 ...

28 (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.

...

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

...

1 (l) The conviction of a crime substantially related to the qualifications, functions,  
2 and duties of a licensee under this chapter. The record of conviction of a violation of  
3 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code  
4 regulating controlled substances or of a violation of the statutes of this state regulating  
5 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional  
6 conduct. In all other cases, the record of conviction shall be conclusive evidence only of  
7 the fact that the conviction occurred. The board may inquire into the circumstances  
8 surrounding the commission of the crime, in order to fix the degree of discipline or, in  
9 the case of a conviction not involving controlled substances or dangerous drugs, to  
10 determine if the conviction is of an offense substantially related to the qualifications,  
11 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a  
12 conviction following a plea of nolo contendere is deemed to be a conviction within the  
13 meaning of this provision. The board may take action when the time for appeal has  
14 elapsed, or the judgment of conviction has been affirmed on appeal or when an order  
15 granting probation is made suspending the imposition of sentence, irrespective of a  
16 subsequent order under Section 1203.4 of the Penal Code allowing the person to  
17 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
18 verdict of guilty, or dismissing the accusation, information, or indictment.

19 ...

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

24 13. Health and Safety Code section 11379, subdivision (a) states:

25 Except as otherwise provided in subdivision (b) and in Article 7 (commencing with  
26 Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every  
27 person who transports, imports into this state, sells, furnishes, administers, or gives  
28 away, or offers to transport, import into this state, sell, furnish, administer, or give away,  
or attempts to import into this state or transport any controlled substance which is (1)  
classified in Schedule III, IV, or V and which is not a narcotic drug, except subdivision  
(g) of Section 11056, (2) specified in subdivision (d) of Section 11054, except  
paragraphs (13), (14), (15), (20), (21), (22), and (23) of subdivision (d), (3) specified in  
paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3)  
of subdivision (f) of Section 11054, or (5) specified in subdivision (d) or (e), except  
paragraph (3) of subdivision (e), or specified in subparagraph (A) of paragraph (1) of  
subdivision (f), of Section 11055, unless upon the 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 for a period  
of two, three, or four years.

14. United States Code, title 21, section 843 states, in pertinent part:

(a) It shall be unlawful for any person knowingly or intentionally –

...

(3) to acquire or obtain possession of a controlled substance by  
misrepresentation, fraud, forgery, deception, or subterfuge. . . .

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**REGULATORY PROVISIONS**

1 15. California Code of Regulations, title 16, section 1769, subdivision (b) states:

2  
3 (b) When considering the suspension or revocation of a facility or a personal  
4 License on the ground that the licensee or the registrant has been convicted of a crime,  
the board, in evaluating the rehabilitation of such person and his present eligibility for a  
license will consider the following criteria:

5 (1) Nature and severity of the act(s) or offense(s).

6 (2) Total criminal record.

7 (3) The time that has elapsed since commission of the act(s) or offense(s).

8 (4) Whether the licensee has complied with all terms of parole, probation,  
9 restitution or any other sanctions lawfully imposed against the licensee.

10 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

12 For the purpose of denial, suspension, or revocation of a personal or facility license  
13 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions  
14 Code, a crime or act shall be considered substantially related to the qualifications,  
15 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.

16 **COSTS**

17 17. 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 18. Hydrocodone is a Schedule II controlled substance as designated by Health and  
25 Safety Code section 11055, subdivision (b)(1)(I), and is a dangerous drug pursuant to Business  
26 and Professions Code section 4022.

27 19. Hydrocodone bitartate with acetaminophen (hydrocodone APAP), sold  
28 commercially as Norco, is a Schedule II controlled substance as designated by Title 21, Code of

1 Federal Regulations section 1308.12, subdivision (b)(1)(vi), and it is designated as a Schedule III  
2 controlled substance under (California) Health and Safety Code section 11056, subdivision (e)(4).  
3 It is a dangerous drug pursuant to Business and Professions Code section 4022.

4 20. Oxycodone is a Schedule II controlled substance as designated by Health and Safety  
5 Code section 11055, subdivision (b)(1)(M), and is a dangerous drug pursuant to Business and  
6 Professions Code section 4022.

7 21. Sildenafil citrate, sold commercially as Viagra, is a dangerous drug pursuant to  
8 Business and Professions Code section 4022.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(May 4, 2016 Criminal Convictions for Unlawful Sales/Transportation of Controlled**  
11 **Substances & Embezzlement of Prescription Drugs)**

12 22. Respondent has subjected her registration to discipline under sections 490 and 4301,  
13 subdivision (l) of the Code in that she was convicted of crimes that are substantially related to the  
14 qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

15 a. On or about May 4, 2016, in a criminal proceeding entitled *People of the State*  
16 *of California v. Elizabeth Ashley Becerra*, in Riverside County Superior Court, case number  
17 RIF1601981, Respondent was convicted on her plea of guilty to violating Health and Safety Code  
18 section 11379, subdivision (a), willful, unlawful selling/transporting/furnishing/administering a  
19 controlled substance, to wit, hydrocodone and Norco; and Penal Code section 503, embezzlement  
20 of prescription drugs in excess of \$400, felonies. Pursuant to Respondent's plea agreement, the  
21 court dismissed an additional felony count of prescription drug embezzlement (Pen. Code, § 503).

22 b. As a result of the convictions, on May 17, 2016, Respondent was granted  
23 formal probation for 36 months, and she was committed to the custody of the sheriff in their  
24 Electronic Monitoring Program (ankle bracelet). Respondent was ordered to pay fees and fines,  
25 and restitution to the victim, submit to a Fourth Amendment waiver, abstain from the use or  
26 possession of illegal controlled substances, submit to random drug tests, and additional conditions  
27 of felony probation.

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1 c. The facts that led to the convictions are that on or about March 9, 2016, an  
2 investigator with the Corona Police Department responded to a Rite Aid pharmacy in response to  
3 a report of embezzlement. The pharmacy's loss prevention manager told the investigator that he  
4 began to investigate the loss of Viagra and discovered that Respondent, one of their pharmacy  
5 technicians, had been stealing drugs from the pharmacy. The loss prevention manager reviewed  
6 surveillance video and discovered evidence of Respondent stealing drugs. Respondent also made  
7 a hand-written confession and admitted to taking Viagra, oxycodone, hydrocodone, and cough  
8 syrup with codeine. Respondent told the investigator she stole medications because she needed  
9 some extra money. Respondent stated she would take tablets from prescription bottles that had  
10 already been filled, and that she would sell Viagra and Norco tablets for \$5 each, hydrocodone  
11 for \$4, and cough syrup for \$50 a bottle.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Commission of Acts Involving Dishonesty, Fraud, Deceit & Corruption)**

14 23. Respondent has subjected her registration to discipline under section 4301,  
15 subdivision (f) of the Code for unprofessional conduct in that she stole controlled substances and  
16 dangerous drugs from her employer/pharmacy using fraud, deceit, and dishonesty, as described in  
17 paragraph 22, above.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Violation of California Statutes Regulating Controlled Substances)**

20 24. Respondent has subjected her registration to discipline under section 4301,  
21 subdivision (j) of the Code for unprofessional conduct in that she knowingly violated Business  
22 and Professions Code sections 4022, 4059, and 4060; and Health and Safety Code section 11379,  
23 as described in paragraph 22, above.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Violating Federal & State Laws & Regulations Governing Pharmacy)**

26 25. Respondent has subjected her registration to discipline under section 4301,  
27 subdivision (o) of the Code for unprofessional conduct in that she violated Title 21 U.S.C. section  
28 843, subdivision (a)(3), Board of Pharmacy Regulations (California Code of Regulations, Title

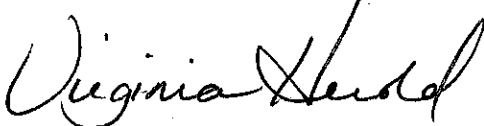
1 16, Section 1700, et seq.), and the California Uniform Controlled Substances Act (Health and  
2 Safety Code 11000, et seq.), when he obtained controlled substances using fraud and deceit, as  
3 described in paragraph 22, above.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 126156,  
8 issued to Elizabeth Ashley Becerra;
- 9 2. Ordering Elizabeth Ashley Becerra to pay the Board of Pharmacy the reasonable  
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
11 Code section 125.3; and,
- 12 3. Taking such other and further action as deemed necessary and proper.

13  
14 DATED: 10/14/16



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

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