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

11 In the Matter of the Accusation Against:

Case No. 5983

12 **YVONNE JEANETTE SINGH**
13 **5027 Santa Monica Ave., Apt. E**
14 **San Diego, CA 92107**

A C C U S A T I O N

15 **Pharmacy Technician Registration No. TCH**
16 **53479**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 22, 2004, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 53479 to Yvonne Jeanette Singh (Respondent). The Pharmacy
24 Technician Registration expired on February 29, 2016, and has not been renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code (Code) unless otherwise indicated.

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4. Section 4300 of the Code states:

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

5. Section 4300.1 of the Code 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.

STATUTORY PROVISIONS

6. Section 4022 of the Code states

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

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

(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, 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.

7. Section 4026 of the Code states: 'Furnish' means to supply by any means, by sale or otherwise.

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

9. Section 4060 of the Code states, in pertinent part, that a person may not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

10. Section 4301 of the Code 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

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(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, of any other state, or of the United States regulating controlled substances and dangerous drugs.

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

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

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.

12. Health and Safety Code section 11350 states, in pertinent part:

(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of Section 11054, specified in 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 substance 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

13. Health and Safety Code section 11377 states, in pertinent part:

(a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) 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), (e), or (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 in a county jail

1 **REGULATORY PROVISIONS**

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

3 For the purpose of denial, suspension, or revocation of a personal or facility
4 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
5 Professions Code, a crime or act shall be considered substantially related to the
6 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.

7 **COSTS**

8 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
9 administrative law judge to direct a licentiate found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
12 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
13 included in a stipulated settlement.

14 **DRUGS**

15 16. Hydrocodone/acetaminophen (common brand name Norco) is a Schedule III
16 controlled substance under (California) Health and Safety Code section 11056, subdivision (e)(4)
17 and Title 21, Code of Federal Regulations section 1308.13(e)(1)(iv). On October 6, 2014,
18 hydrocodone/acetaminophen was rescheduled as a Schedule II under Title 21, Code of Federal
19 Regulations section 1308.12 subdivision (b)(1)(vi). It is a dangerous drug pursuant to Business
20 and Professions Code section 4022.

21 17. Alprazolam (common brand name Xanax) is a Schedule IV controlled substance as
22 designated by Title 21, Code of Federal Regulations section 1308.14, subdivision (c)(2), and it is
23 designated as Schedule IV controlled substance under (California) Health and Safety Code
24 section 11057, subdivision (d)(1). It is a dangerous drug pursuant to Business and Professions
25 Code section 4022.

26 18. Promethazine with codeine (common brand name Phenergan with codeine) is a
27 Schedule V controlled substance as designated by Title 21, Code of Federal Regulations section
28 1308.15, subdivision (c)(1), and it is designated as Schedule V controlled substance under

1 (California) Health and Safety Code section 11058, subdivision (c)(1). It is a dangerous drug
2 pursuant to Business and Professions Code section 4022.

3 19. Clonazepam (common brand name Klonopin) is a Schedule IV controlled substance
4 as designated by Title 21, Code of Federal Regulations section 1308.14, subdivision (c)(11), and
5 it is designated as Schedule IV controlled substance under (California) Health and Safety Code
6 section 11057, subdivision (d)(7). It is a dangerous drug pursuant to Business and Professions
7 Code section 4022.

8 20. Buprenorphine/naloxone (common brand name Suboxone) is a Schedule III
9 controlled substance as designated by Title 21, Code of Federal Regulations section 1308.13,
10 subdivision (e)(2)(i), and it is designated as Schedule V controlled substance under (California)
11 Health and Safety Code section 11058, subdivision (d). It is a dangerous drug pursuant to
12 Business and Professions Code section 4022.

13 **FACTS**

14 21. On or about December 17, 2014, the Board received notification from CVS Pharmacy
15 #9112 in Lemon Grove, California of the theft of controlled substances by Respondent and one
16 additional pharmacy technician. The notification indicated that Respondent had admitted to the
17 theft. A DEA Form 106 indicated that 17,513 tablets of hydrocodone /acetaminophen 10/325 mg
18 (HPAP 10), 8,043 ml of promethazine with codeine, 5,704 tablets of alprazolam 2 mg, 505 tablets
19 of clonazepam 1 mg, 887 tablets of hydrocodone /acetaminophen 7.5/325 mg (HPAP 7.5), 433
20 tablets of alprazolam 0.25 mg, 300 tablets of alprazolam 1 mg, 60 tablets of Suboxone 8/2 mg,
21 and 15,000 tablets of hydrocodone /acetaminophen 5/325 mg (HPAP 5) were lost from its
22 inventory.¹ In a written statement, Respondent admitted that she stole 15,000 tablets of HPAP 5,
23 15,000 tablets of HPAP 10, 300 tablets of alprazolam .25mg, 300 tablets of alprazolam 1mg, 400

24 ¹ CVS Pharmacy #9112 based the quantities listed on the DEA Form 106 on the quantities
25 admittedly stolen by Respondent and the other technician, rather than their own internal audit.
26 The drug quantities listed on the DEA Form 106 differ from the quantities determined in the
27 internal audit. CVS Pharmacy #9112's internal audit reported an overage of 547 tablets of
28 hydrocodone /acetaminophen 5/325 mg (HPAP 5), an overage of 26 tablets of alprazolam 1 mg,
an overage of 64 tablets of Suboxone 8/2 mg, and a shortage of 8,354 ml of promethazine with
codeine. An audit performed by an investigator for the Board of Pharmacy at this time revealed a
shortage of 587 tablets of hydrocodone /acetaminophen 7.5/325 mg (HPAP 7.5), and not the 887
tablets as reported.

1 tablets of alprazolam 2mg, and 100 tablets of Klonopin. Respondent admitted that she had hidden
2 the drugs in a plastic bag and walked out of the pharmacy with them. Respondent stated that her
3 thefts occurred over the course of one and one half (1 ½) years. Respondent admitted that she
4 stole the drugs and gave them to her boyfriend. Respondent agreed to reimburse CVS Pharmacy
5 in the amount of \$26,099.45 for the stolen drugs. Respondent's employment with CVS Pharmacy
6 #9112 was terminated.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Commission of Acts Involving Dishonesty, Fraud, Deceit and Corruption)**

9 22. Respondent has subjected her registration to discipline under Code section 4301,
10 subdivision (f), and Health and Safety Code section 11173(a), for unprofessional conduct in that
11 Respondent stole HPAP 5, HPAP 10, alprazolam, and Klonopin from her employer using fraud,
12 deceit, and dishonesty, as is more fully set forth in paragraph 21, which is incorporated herein by
13 reference.

14 **SECOND CAUSE FOR DISCIPLINE**

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

16 23. Respondent has subjected her registration to discipline under section 4301,
17 subdivision (j) of the Code for unprofessional conduct in that Respondent knowingly violated
18 Health and Safety Code section 11173, subdivision (a), Title 21 U.S.C. section 843, subdivision
19 (a)(3), and the California Uniform Controlled Substances Act (Health and Safety Code 11000, et
20 seq.), as is more fully set forth in paragraph 21, which is incorporated herein by reference.

21 **THIRD CAUSE FOR DISCIPLINE**

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

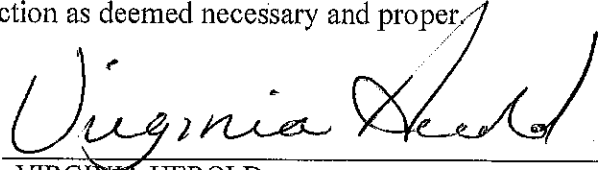
23 24. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
24 Code for unprofessional conduct in that she violated Business and Professions Code sections
25 4059 and 4060, and Board of Pharmacy Regulations (California Code of Regulations, Title 16,
26 Section 1700, et seq.), when she obtained controlled substances using fraud and deceit, as is more
27 fully set forth in paragraph 21, which is incorporated herein by reference.

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

DATED: 7/19/17



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

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