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

12 In the Matter of the Accusation Against:

Case No. 3261

13 **BRADLEY ALLAN SHUPE**  
2546 Ledgeview Place  
14 Spring Valley, CA 91977

**ACCUSATION**

15 Technician Registration No. TCH 71749

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
22 2. On or about September 7, 2006, the Board of Pharmacy issued Original  
23 Pharmacy Registration Number TCH 71749 to Bradley Allan Shupe (Respondent). The license  
24 was in full force and effect all times relevant to the charges brought herein and will expire on  
25 December 31, 2009, unless renewed.

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JURISDICTION

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

5           4.     Section 4300 of the Code states:

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

7           ....

8           5.     Section 4301 of the Code states:

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

13           ....

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

18           (g) Knowingly making or signing any certificate or other document  
19 that falsely represents the existence or nonexistence of a state of facts.

20           (i) Except as otherwise authorized by law, knowingly selling, furnishing,  
21 giving away, or administering or offering to sell, furnish, give away, or administer  
22 any controlled substance to an addict.

23           (l) The conviction of a crime substantially related to the qualifications,  
24 functions, and duties of a licensee under this chapter. The record of conviction  
25 of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the  
26 United States Code regulating controlled substances or of a violation of the  
27 statutes of this state regulating controlled substances or dangerous drugs shall be  
28 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 substantially related to the qualifications, functions, and duties of a  
licensee under this chapter. A plea or verdict of guilty or a conviction following a  
plea of nolo contendere is deemed to be a conviction within the meaning of this  
provision. The board may take action when the time for appeal has elapsed, or the  
judgment of conviction has been affirmed on appeal or when an order granting  
probation is made suspending the imposition of sentence, irrespective of a  
subsequent order under Section 1203.4 of the Penal Code allowing the person to  
withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
the verdict of guilty, or dismissing the accusation, information, or indictment.

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

6 (p) Actions or conduct that would have warranted denial of a license.

7 7. Section 118, subdivision (b), of the Code provides that the expiration of a  
8 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
9 period within which the license may be renewed, restored, reissued or reinstated.

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

14 9. Section 490 of the Code states:

15 (a) In addition to any other action that a board is permitted to take  
16 against a licensee, a board may suspend or revoke a license on the ground  
17 that the licensee has been convicted of a crime, if the crime is substantially  
18 related to the qualifications, functions, or duties of the business or profession  
19 for which the license was issued.

20 .....

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

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

11. California Code of Regulations, title 16, section 1769, states:

.....

When considering the suspension or revocation of a facility or a personal  
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:

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

(2) Total criminal record.

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

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

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

5 FIRST CAUSE FOR DISCIPLINE

6 (June 4, 2008 Conviction for Possession for Sale of a Controlled Substance -  
7 Hydrocodone - Between Late 2007 and Early 2008)

8 12. Respondent is subject to disciplinary action under sections 490 and 4301(I)  
9 in that on June 4, 2008, in a case entitled People vs. Bradley Allan Shupe, in the Superior Court  
10 of California, County of San Diego, Central Division, Case No. CD212279, Respondent pled  
11 guilty to violating Health and Safety Code section 11351 (Possession for Sale of a Controlled  
12 Substance - Hydrocodone), a felony. The circumstances are as follows:

13 a. In February of 2008, the Regional Pharmaceutical Enforcement Task  
14 Force (RxNET) received a call from Respondent's then-employer, CVS Pharmacy, Loss  
15 Prevention Specialist R.W., requesting a meeting regarding missing drugs at a CVS Pharmacy.  
16 R.W. informed RxNET that, after several inventory shortages of Hydrocodone were found at  
17 CVS Pharmacy, three covert cameras were installed within the pharmacy area. Respondent was  
18 recorded on three occasions, on February 5, 6 and 19, 2008, taking bottles of Hydrocodone and  
19 concealing them on his person.

20 On March 6, 2008, Respondent was interviewed by an RxNET member and  
21 Respondent admitted to taking Hydrocodone and other pills from CVS Pharmacy without the  
22 pharmacy's authorization during the previous six to seven months. Respondent admitted to task  
23 force members that he last took Hydrocodone without authorization from CVS Pharmacy on  
24 March 4, 2008. Respondent was arrested by RxNET task force members.

25 b. As a result of the above conviction, Respondent was committed to the San  
26 Diego County Jail for 180 days, with 7 days credit for time served. Respondent was placed on  
27 three years formal probation to run through July of 2011. Respondent was also ordered to pay a  
28 \$ 1,100 in fees and fines, and \$20,926.83 restitution to the victim(s) at \$50 per month.

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SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

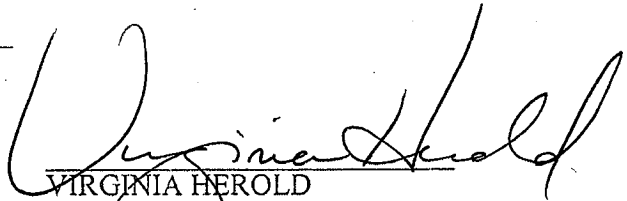
13. Respondent is subject to disciplinary action under section 4301(f), (j), and (l) in that between late 2007 and March of 2008, Respondent took Hydrocodone pills from his employer, CVS Pharmacy, without the pharmacy's authorization. Respondent admitted to officers that he sold the pills for about two to three dollars a pill to transients in the North Park area of San Diego County.

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 Original Pharmacy Technician Registration Number TCH 71749 issued to Bradley Allan Shupe;
2. Ordering Respondent Bradley Allan Shupe 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/10/09



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