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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. 3287

13 **LUKE D. DAGUE**
FPO AE 09566-2840
14 **USS CARL VINSON**
NEWPORT NEWS, VA 23601

ACCUSATION

15 **Pharmacy Technician Registration**
16 **No. TCH 53510**

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, Department of Consumer Affairs.

23 2. On or about January 2, 2004, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 53510 to Luke D. Dague (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein. The
26 Registration will expire on April 30, 2011, unless renewed.

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JURISDICTION

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

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

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

6 5. Section 118 of the Code provides, in pertinent part, that the expiration of a license
7 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
8 licensee or to render a decision imposing discipline on the license.

STATUTORY PROVISIONS

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10 6. Section 4059 of the Code provides, in pertinent part, that a person may not furnish
11 any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
12 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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

14 No person shall possess any controlled substance, except that furnished to a
15 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian,
16 or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order
17 issued by a certified nurse midwife pursuant to Section 2746.51, a nurse practitioner
18 pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or
19 naturopathic doctor pursuant to Section 3640.5, or a pharmacist . . .

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

21 The board shall take action against any holder of a license who is guilty of
22 unprofessional conduct . . . Unprofessional conduct shall include, but is not limited to, any
23 of the following:

24 . . .
25 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
26 deceit, or corruption, whether the act is committed in the course of relations as a
27 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

28 . . .
29 (j) The violation of any of the statutes of this state, or any other state, or of
30 the United States regulating controlled substances and dangerous drugs.

31 . . .
32 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
33 abetting the violation of or conspiring to violate any provision or term of this
34 chapter or of the applicable federal and state laws and regulations governing

1 pharmacy, including regulations established by the board or by any other state or
2 federal regulatory agency.

3 9. Section 4306 of the Code provides that it shall constitute unprofessional conduct and
4 a violation of this chapter for any person licensed under this chapter to violate, attempt to violate,
5 directly or indirectly, . . . any provision or term of this article. . .

6 10. Health and Safety Code section 11170 states:

7 No person shall prescribe, administer, or furnish a controlled substance for himself.

8 **COST RECOVERY**

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

12 **DRUGS**

13 12. Alprazolam is a Schedule IV controlled substance as designated by Health and Safety
14 Code section 11057, subdivision (d)(1), and is a dangerous drug pursuant to Business and
15 Professions Code section 4022.

16 **FACTUAL BACKGROUND**

17 13. On or about May 27, 2007, Respondent, while on duty working as a pharmacy
18 technician at Loma Linda University Hospital, took a patient's medication bottle containing the
19 controlled substance Alprazolam. Respondent was terminated from the hospital on June 1, 2007.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Obtained Controlled Substances from a Patient by Theft)

22 14. Respondent is subject to disciplinary action for unprofessional conduct under Code
23 section 4301(f) in that on or about May 27, 2007, while on duty as a pharmacy technician at
24 Loma Linda University Hospital, Respondent stole a patient's medication bottle containing the
25 controlled substance Alprazolam.

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SECOND CAUSE FOR DISCIPLINE

(Furnishing Controlled Substances to Himself)

15. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301 (j) in that on or about May 27, 2007, while on duty as a pharmacy technician at Loma Linda University Hospital, Respondent furnished the controlled substance Alprazolam to himself without authorization from a prescriber in violation of Health and Safety Code section 11170.

THIRD CAUSE FOR DISCIPLINE

(Violated Pharmacy Laws)

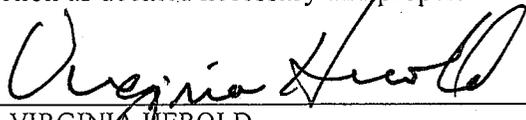
16. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301 (o) in that on or about May 27, 2007, while on duty as a pharmacy technician at Loma Linda University Hospital, Respondent possessed the controlled substance Alprazolam that he took from a patient in violation of Code section 4060.

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 Pharmacy Technician Number TCH 53510, issued to Luke D. Dague.
2. Ordering Luke D. Dague 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: 8/17/09


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

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