

1 EDMUND G. BROWN, JR.  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 ANAHITA S. CRAWFORD  
Deputy Attorney General  
4 State Bar No. 209545  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-8311  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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 **BRANDEE L. SALAZAR**  
13 **4041 Timahoe Drive**  
**Modesto, Ca 95356**  
14 **Pharmacy Technician**  
15 **License No. TCH 28683**  
16 Respondent.

Case No. 3347

**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  
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about March 16, 1999, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 28683 to Brandee L. Salazar (Respondent). The Pharmacy Technician  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on May 31, 2010, unless renewed.

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1 JURISDICTION

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

5 STATUTORY PROVISIONS

6 4. Section 4202 of the Code states, in part:

7 (a) The board may issue a pharmacy technician license to an individual if he  
8 or she is a high school graduate or possesses a general educational development  
certificate equivalent, and meets any one of the following requirements:

- 9 (1) Has obtained an associate's degree in pharmacy technology.  
10 (2) Has completed a course of training specified by the board.  
11 (3) Has graduated from a school of pharmacy recognized by the board.  
12 (4) Is certified by the Pharmacy Technician Certification Board.

13 .....

14 (d) The board may suspend or revoke a license issued pursuant to this section  
15 on any ground specified in Section 4301.

16 .....

17 5. Section 4301 of the Code states:

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

21 .....

22 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
23 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.

24 .....

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

28 .....

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

3 .....

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

23 .....

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

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6. Section 4059 of the Code states, in pertinent part, that:

19 a) A person may not furnish any dangerous drug, except upon the prescription  
20 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
21 pursuant to Section 3640.7. A person may not furnish any dangerous device, except  
22 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
23 naturopathic doctor pursuant to Section 3640.7.

24 7. Section 4060 of the Code states:

25 "No person shall possess any controlled substance, except that furnished to a  
26 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
27 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
28 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

1 physician assistant, when in stock in containers correctly labeled with the name and  
address of the supplier or producer.

2 "Nothing in this section authorizes a certified nurse-midwife, a nurse  
3 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own  
stock of dangerous drugs and devices."

4 8. Section 4022 of the Code states

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

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

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

11 "(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."

12 9. Health and Safety Code section 11350, subdivision (a) states:

13 Except as otherwise provided in this division, every person who possesses  
14 ... (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
15 drug, unless upon the written prescription of a physician, dentist, podiatrist, or  
veterinarian licensed to practice in this state, shall be punished by imprisonment in  
the state prison.

16 10. Health and Safety Code section 11377, subdivision (a) states:

17 Except as authorized by law and as otherwise provided in subdivision (b) or  
18 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of  
19 Division 2 of the Business and Professions Code, every person who possesses any  
20 controlled substance which is (1) classified in Schedule III, IV, or V, and which is not  
a narcotic drug, ... 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 for a period of not more than one year or in the state prison.

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

22 No person shall obtain or attempt to obtain controlled substances, or procure  
23 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  
24 material fact. . . .

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1 COST RECOVERY

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

6 CONTROLLED SUBSTANCES AT ISSUE

7 13. "Fiorinal with Codeine", a brand name for a butalbital compound containing  
8 codeine, is a Schedule III non narcotic controlled substance as designated by Health and Safety  
9 Code section 11056, subdivision (e)(2).

10 14. "Lorcet, Lortab, Vicodin, Norco" are brand names for hydrocodone combination  
11 products containing acetaminophen and are Schedule III narcotic controlled substance as  
12 designated by Health and Safety Code section 11056, subdivision (e)(4).

13 15. "Vicoprofen" a brand name for a hydrocodone combination product containing  
14 Ibuprofen is a Schedule III narcotic controlled substance as designated by Health and Safety Code  
15 section 11056, subdivision (e)(4).

16 16. "Xanax", a brand name for a Alprazolam is a Schedule IV non narcotic controlled  
17 substance as designated by Health and Safety Code section 11057, subdivision (d)(1).

18 DANGEROUS DRUGS AT ISSUE

19 17. "Azithromycin", a generic form of Zithromax or Zmax, is a dangerous drug in that its  
20 procurement requires a prescription.

21 18. "Carisoprodol", a generic form of Soma, is a dangerous drug in that its procurement  
22 requires a prescription.

23 19. "Prilosec", a brand name for Omeprazole, is a dangerous drug in that its procurement  
24 requires a prescription.

25 FIRST CAUSE FOR DISCIPLINE

26 **(Unlawful Obtaining and Possession of Controlled Substances and Dangerous Drugs)**

27 20. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
28 section 4301, subdivision (j) (violation of laws regulating controlled substances and dangerous

1 drugs) in that Respondent violated section 4060 (possession of a controlled substance without a  
2 prescription), Health and Safety Code section 11350(a) (possession of narcotic controlled  
3 substances), 11377(a) (possession of non-narcotic controlled substances) and 11173(a) (obtaining  
4 controlled substances). The circumstances are as follows:

5 21. On or about October 20, 2000, Respondent was hired by a Target Store to work in  
6 their pharmacy as a pharmacy technician. In or about May 2005 through December 2007,  
7 Respondent diverted nearly 10,000 tablets of controlled substances and dangerous drugs to herself  
8 from Target pharmacy. On December 20, 2007, Respondent admitted to stealing approximately  
9 8,500 tablets of hydrocodone combination products<sup>1</sup> in various strengths, 240 tables of  
10 Alprazolam, two boxes of Azithromycin, 1,200 tablets of Carisoprodol, and three boxes of  
11 Prilosec. Respondent stated that she diverted the drugs because she has been diagnosed with  
12 Multiple Sclerosis and her prescribed pain medication was not sufficient to control her pain.  
13 Respondent states that at times, she was ingesting 12 to 15 hydrocodone/Acetamemaphin tablets  
14 per day. Additionally, Respondent admitted to stealing Azithromycin tablets to provide to her  
15 daughter.

### 16 SECOND CAUSE FOR DISCIPLINE

#### 17 (Self-Administration/Use of Controlled Substances in a Dangerous Manner)

18 22. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
19 section 4301, subdivision (h) (self administer/use of controlled substances/dangerous drugs in a  
20 dangerous manner) in that Respondent diverted and used dangerous drugs in large quantities per  
21 day, in a manner dangerous or injurious to herself and/or others, as set for in paragraph 20, above.

### 22 THIRD CAUSE FOR DISCIPLINE

#### 23 (Conviction of a Crime)

24 23. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that  
25 she was convicted of crimes which are substantially related to the qualifications, functions, and  
26 duties of a Pharmacy Technician, as follows:

27 \_\_\_\_\_  
28 <sup>1</sup> Hydrocodone combination products are products such as Tylenol and Ibuprofens that are combined with Hydrocodone.



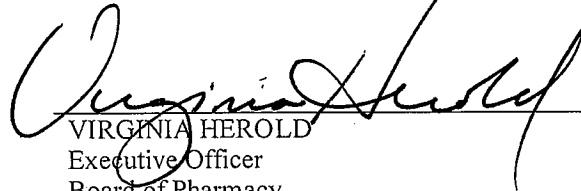
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2. Ordering Brandee L. Salazar to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED:

9/3/09



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

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