1 2 3 4 5 6 7 8 9	EDMUND G. BROWN JR. Attorney General of California ARTHUR D. TAGGART Supervising Deputy Attorney General BRIAN S. TURNER Deputy Attorney General State Bar No. 108991 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 445-0603 Facsimile: (916) 327-8643 E-mail: Brian.Turner@doj.ca.gov Attorneys for Complainant BEFORE THE BOARD OF PHARMACY
10 11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
12	In the Matter of the Accusation Against: Case No. 3501
13	CATHY LOIS WHITE
14	P.O. Box 991 Twain Harte, CA 95383 <b>ACCUSATION</b>
15	
16	Pharmacy Technician Registration No. TCH 15916
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 May 11, 1995, the Board of Pharmacy issued Pharmacy Technician
24	Registration Number TCH 15916 to Cathy Lois White (Respondent). The Pharmacy Technician
25	Registration was in full force and effect at all times relevant to the charges brought herein and
26	will expire on January 31, 2011, unless renewed.
27	
28	
	1
	Accusation

## STATUTORY AND REGULATORY PROVISIONS 1 This Accusation is brought before the Board of Pharmacy (Board), Department of 3. 2 Consumer Affairs, under the authority of the following laws. All section references are to the 3 Business and Professions Code unless otherwise indicated. 4 Section 490 of the Code provides, in pertinent part, that a board may suspend or 4. 5 6 revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the 7 license was issued. 8 Section 492 of the Code states: 5. 9 10 "Notwithstanding any other provision of law, successful completion of any diversion 11 program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of 12 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 13 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that 14 division, from taking disciplinary action against a licensee or from denying a license for 15 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a 16 17 record pertaining to an arrest. 6. Section 493 of the Code states: 18 "Notwithstanding any other provision of law, in a proceeding conducted by a board within 19 the department pursuant to law to deny an application for a license or to suspend or revoke a 20

license or otherwise take disciplinary action against a person who holds a 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 discipline or to determine if the conviction is substantially related to the
qualifications, functions, and duties of the licensee in question.

28

111

2

		$\bigcirc$
l		
1	8.	Section 4300 provides in relevant part:
2		"(a) Every license issued may be suspended or revoked."
3	9.	Section 4301 provides in relevant part:
4	"Tł	ne board shall take action against any holder of a license who is guilty of unprofessional
5	conduct.	Unprofessional conduct shall include, but not be limited to, any of the following:
6		"a) Gross immorality.
7		(f) The commission of any act involving moral turpitude,
8		dishonesty, fraud, deceit, or corruption, whether the act is
9		committed in the course of relations as a licensee or otherwise, and
10		whether the act is a felony or misdemeanor or not.
11		(j) The violation of any of the statutes of this state, of any
12		other state, or of the United States regulating controlled substances
13		and dangerous drugs.
14 15		(l) The conviction of a crime substantially related to the
15		qualifications, functions, and duties of a licensee under this
17		chapter.
18		p) Actions or conduct that would have warranted denial of a
19		license."
20	10.	Section 11352(a) of the Health and Safety Code provides in relevant part.
21		(a) Except as otherwise provided in this division, every
22		person who transports, imports into this state, sells, furnishes,
23		administers, or gives away, or offers to transport, import into this
24		State, sell, furnish, administer, or give away, or attempts to import into this
25		State, sell, furnish, administer, or give away, or attempts to import into this
26		State or transport (1) any controlled substance specified in subdivision (b)
27		
28		
		3 Accusation
1	I	Accusation

•

,

 $\bigcirc$ 

1	or (c) of Section 11055unless upon the written prescription of a
2	physician, dentist, podiatrist, or veterinarian licensed"
3	
4	<u>COST RECOVERY</u>
5	11. Section 125.3 of the Code provides, in pertinent part, that the
6	Board/Registrar/Director may request the administrative law judge to direct a licentiate found to
7	have committed a violation or violations of the licensing act to pay a sum not to exceed the
8	reasonable costs of the investigation and enforcement of the case.
9	CONTROLLED SUBSTANCE AT ISSUE
10	CONTROLLED SUBSTANCE AT ISSUE
11	12. Hydrocodone is a Schedule II controlled substance as designated by Health and
12	Safety Code section 11055, subsection (b)(1)(J).
13	
14	<u>FIRST CAUSE FOR DISCIPLINE</u> (Unprofessional Conduct)
15	13. Respondent is subject to disciplinary action under section 4301(a) in that
16	respondent transported, or sold or offered to sell the drug hydrocodone. The circumstances are as
17	follows:
18	14. On or about or between August 3, 2007 and March 3, 2008 respondent unlawfully
19	transported, imported, sold, furnished, administered and gave away or offered to perform all these
20	acts with the controlled substance Hydrocodone in or about the County of Santa Cruz, California.
21	On or about November 7, 2008, respondent was convicted by a plea of no contest to a violation of
22	Health and Safety Code section 11352(A), a felony, based on the facts set forth in this Paragraph.
23	///
24	///
25	///
26	/// .
27	
28	///
	4
1	Accusation

.

------.

1	SECOND CAUSE FOR DISCIPLINE
2	(Conviction of Crime)
3	15. Respondent is subject to disciplinary action under section 4301(j) in that respondent
4	was convicted of a violation of California statute concerning controlled substances. The
5	circumstances are as follows:
6	16. Paragraphs 13 and 14 are incorporated herein as though set forth at length.
7	Respondent was convicted of a violation of Health and Safety Code section 11352(A), crime
8	involving controlled substances.
9	THIRD CAUSE FOR DISCIPLINE
10	(Conviction of a Crime Substantially Related)
11	17. Respondent is subject to disciplinary action under section 4301(l) in that
12	respondent was convicted of a crime substantially related to the duties and qualifications of a
13	pharmacist technician licensee. The circumstances are as follows:
14	18. Paragraphs 13 and 14 are incorporated herein as though set forth at length.
15	Respondent's conviction of violating Health and Safety code section 11352(A) evidences present
16	or potential unfitness to perform the functions of a licensee consistent with public health, safety
17	or welfare.
18	
19	FOURTH CAUSE FOR DISCIPLINE
20	(Unprofessional Conduct)
21	19. Respondent is subject to disciplinary action pursuant to section 4301(p) in that
22	respondent committed acts that would warrant denial of a license. The circumstances are as
23	follows:
24	20. Paragraphs 13 and 14 are incorporated herein as though set forth at length. The
25	acts leading to respondent's conviction evidences unfitness for licensure as a pharmacist
26	technician and would warrant denial of a pharmacist technician's license.
27	///
28	
	5
	Accusation

.

.

Accusation

1	DDAVED
1	PRAYER
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3	and that following the hearing, the Board of Pharmacy issue a decision:
4	1. Revoking or suspending Pharmacy Technician Registration Number TCH 15916,
5	issued to Cathy Lois White.
6	2. Ordering Cathy Lois White to pay the Board of Pharmacy the reasonable costs of the
7	investigation and enforcement of this case, pursuant to Business and Professions Code section
8	125.3;
· 9	3. Taking such other and further action as deemed necessary and proper.
10	DATED: 3/16/10 Urening Aug
11	VIRGINIA HEROLD Executive Officer
12	Board of Pharmacy Department of Consumer Affairs
13	State of California Complainant
14	
15	SA2009102926 10516508.doc
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
20	. 6
	Accusation

>

 $\widehat{}$ 

.