

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4140

11 **LAURA R. MCEDWARD**
12 **6298 Autumn Trail**
13 **Burlington, KY 41005**

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH 61602**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

20 2. On or about March 24, 2005, the Board of Pharmacy issued Pharmacy Technician
21 License No. TCH 61602 to Laura R. McEdward (Respondent). The License was in full force and
22 effect at all times relevant to charges herein and will expire on April 30, 2013, unless renewed.

23
24 JURISDICTION

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

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

5 8. California Code of Regulations, title 16, section 1770, states:

6 “For the purpose of denial, suspension, or revocation of a personal or facility license
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
10 licensee or registrant to perform the functions authorized by her license or registration in a
11 manner consistent with the public health, safety, or welfare.”

12 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
13 drug or dangerous device except upon the prescription of an authorized prescriber.

14 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
15 controlled substance, except that furnished upon a valid prescription/drug order.

16 11. Health and Safety Code section 11170 provides that no person shall prescribe,
17 administer, or furnish a controlled substance for himself or herself.

18 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
19 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
20 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
21 or subterfuge; or (2) by the concealment of a material fact.

22 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
23 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
24 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

25 14. Health and Safety Code section 11351, in pertinent part, makes it unlawful to possess
26 for sale or purchase for sale any controlled substance listed in Schedule II (Health and Safety
27 Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V.

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1 COST RECOVERY

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

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. Section 4021 of the Code states:

8 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
9 11053) of Division 10 of the Health and Safety Code.”

10 17. Section 4022 of the Code states, in pertinent part:

11 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
12 except veterinary drugs that are labeled as such, and includes the following:

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

15 ...

16 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
17 prescription or furnished pursuant to Section 4006.”

18 18. **OxyContin** is a brand name for **oxycodone hydrochloride**, a Schedule II controlled
19 substance as designated by Health and Safety Code section 11055(b) and a dangerous drug as
20 designated by Business and Professions Code section 4022. It is a narcotic drug.
21

22 FACTUAL BACKGROUND

23 19. From an unknown start date until on or about November 17, 2010, Respondent
24 worked as a pharmacy technician at Moms Pharmacy (PHY 50165) in San Francisco, CA, where
25 by virtue of her employment she had access to controlled substances and dangerous drugs.

26 20. During the tenure of her employment with Moms Pharmacy, Respondent used her
27 access to divert/steal controlled substances and dangerous drugs, including **OxyContin** or other
28 controlled substances/dangerous drugs containing **oxycodone**.

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THIRD CAUSE FOR DISCIPLINE

(Possession of Controlled Substance(s))

24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraphs 19 to 21 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled substance, without a prescription.

FOURTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

25. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 19 to 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

FIFTH CAUSE FOR DISCIPLINE

(Possession or Purchase of Controlled Substance(s) for Sale)

26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11351, in that Respondent, as described in paragraphs 19 to 21 above, possessed or purchased for sale, conspired to possess or purchase for sale, and/or assisted in or abetted the possession or purchase for sale, of a controlled substance.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 19 to 26 above, engaged in unprofessional conduct.

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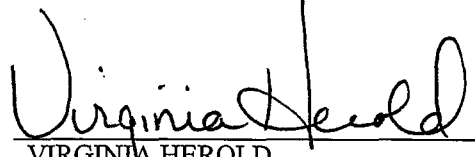
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PRAYER

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 License No. TCH 61602, issued to Laura R. McEdward (Respondent);
2. Ordering Respondent to pay the Board 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 is deemed necessary and proper.

DATED: 9/23/11



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

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