

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4480

12 **SAMANTHA C. TOOMER-FOSTER**
13 **7251 Brentwood Blvd. #115**
Brentwood, CA 94513

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **90586**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about April 27, 2009, the Board issued Pharmacy Technician Registration
23 Number TCH 90586 to Samantha C. Toomer-Foster (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and
25 will expire on August 31, 2014, unless renewed.

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1 **JURISDICTION**

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

5 **STATUTORY AND REGULATORY PROVISIONS**

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

10 5. Section 490 of the Code provides, in pertinent part, that a board may suspend or
11 revoke a license on the ground that the licensee has been convicted of a crime substantially
12 related to the qualifications, functions, or duties of the business or profession for which the
13 license was issued.

14 6. Section 4300 of the Code states in pertinent part:

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

16”

17 7. Section 4300.1 of the Code states:

18 “The expiration, cancellation, forfeiture, or suspension of a board-issued license by
19 operation of law or by order or decision of the board or a court of law, the placement of a license
20 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
21 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
22 proceeding against, the licensee or to render a decision suspending or revoking the license.”

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

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

27 . . .

1 are as follows:

2 a. On or about August 19, 2011, officers of the Sacramento Sheriff's Department
3 approached a vehicle in which Respondent was a passenger that was parked near a motel.
4 Respondent was a registered guest at the motel. The officers determined that the driver of the
5 vehicle was on probation and they performed a probation search of the vehicle. Pursuant to their
6 vehicle search, the officers discovered the following items: fifteen (15) Hydrocodone pills in a
7 plastic bindle; six (6) Clonazepam pills in a plastic bindle; and one (1) unlabeled prescription
8 bottle containing the following items: twenty-six (26) Lorazepam pills; one (1) Hydrocodone pill;
9 three (3) Clonazepam pills; and four (4) Diazepam pills.

10 b. After performing the vehicle search, the officers performed a search of Respondent's
11 motel room, during which they discovered a woman's purse containing the following items: one
12 (1) zip top bag containing the following items: eleven (11) Clonazepam pills; seven (7) Diazepam
13 pills; two (2) Lorazepam pills; and one (1) Phentermine Hydrochloride pill.

14 c. After discovering these items, the officers arrested Respondent.

15 d. Respondent did not have a valid prescription for any of the above-listed medication.

16 e. On or about October 20, 2011, in Sacramento County Superior Court (Case No.
17 11F05884), Respondent was convicted by her plea of nolo contendere of violating Health and
18 Safety Code section 11350 (possession of a controlled substance), a felony.

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20 **PRAYER**

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Pharmacy issue a decision:

23 1. Revoking or suspending Pharmacy Technician Registration Number TCH 90586
24 issued to Samantha C. Toomer-Foster;

25 2. Ordering Samantha C. Toomer-Foster to pay the Board of Pharmacy the reasonable
26 costs of the investigation and enforcement of this case pursuant to Business and Professions Code
27 section 125.3;

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

DATED:

3/1/13



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

SF2012403280