

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JANSEN
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4936

12 **SONYA LEE WELLS**
13 **1407 Hillside Lane**
Roseville, California 95661

A C C U S A T I O N

14 **Pharmacist License No. RPH 41039**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 17, 1987, the Board of Pharmacy issued Pharmacist License
22 Number RPH 41039 to Sonya Lee Wells (Respondent). The Pharmacist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on September 30,
24 2014, unless renewed.

25 **JURISDICTION**

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

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

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

3 “(b) The board shall discipline the holder of any license issued by the board, whose default
4 has been entered or whose case has been heard by the board and found guilty, by any of the
5 following methods:

6 “(1) Suspending judgment.

7 “(2) Placing him or her upon probation.

8 “(3) Suspending his or her right to practice for a period not exceeding one year.

9 “(4) Revoking his or her license.

10 “(5) Taking any other action in relation to disciplining him or her as the board in its
11 discretion may deem proper...”

12 5. Section 4300.1 of the Code states:

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

18 6. Section 4301 of the Code states in pertinent part:

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

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

25 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
26 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
27 oneself, to a person holding a license under this chapter, or to any other person or to the public, or

28 ///

1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

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

5 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
6 violation of or conspiring to violate any provision or term of this chapter or of the applicable
7 federal and state laws and regulations governing pharmacy, including regulations established by the
8 board or by any other state or federal regulatory agency...”

9 7. Section 4327 of the Code makes it unlawful for any person, while on duty, to sell or
10 dispense any drug while under the influence of any dangerous drug or alcoholic beverage.

11 8. Section 4022 of the Code states

12 “Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in
13 humans or animals, and includes the following:

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

16 “(b) Any device that bears the statement: “Caution: federal law restricts this device to sale by
17 or on the order of a _____,” “Rx only,” or words of similar import, the blank to be filled in
18 with the designation of the practitioner licensed to use or order use of the device.

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

21 9. Section 4060 of the Code states in pertinent part:

22 “No person shall possess any controlled substance, except that furnished to a person upon
23 the prescription of a physician...”

24 10. Health and Safety Code section 11170 provides that no person shall prescribe,
25 administer, or furnish a controlled substance for himself or herself.

26 11. Health and Safety Code section 11173, subdivision (a), provides that no person shall
27 obtain or attempt to obtain controlled substances by fraud, deceit, misrepresentation or subterfuge.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SECOND CAUSE FOR DISCIPLINE

(Self-Administration of a Controlled Substance to an Extent or in a Manner Dangerous or Injurious to Herself or Others)

17. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that Respondent administered the controlled substance Clonazepam to herself while on duty as a pharmacist, to an extent or in a manner dangerous to herself or others. Business and Professions Code section 4327, makes it unlawful to dispense any drug while under the influence of a dangerous drug or alcohol. Clonazepam is a dangerous drug. The circumstances are as stated in paragraph 15, above.

THIRD CAUSE FOR DISCIPLINE

(Violation of Laws Governing Controlled Substance)

18. Respondent is subject to disciplinary action under section 4301, subdivision (j), in that on dates uncertain for several months prior to Respondent’s termination from employment at the Bel Air Pharmacy store, Respondent violated laws governing controlled substances. The factual circumstances are as set forth in paragraph 15, above. Respondent violated the following laws:

- a. Health and Safety Code section 11170 in that Respondent furnished and administered the controlled substance Clonazepam to herself.
- b. Health and Safety Code section 11173, subdivision (a), in that Respondent obtained controlled substances by fraud, deceit, misrepresentation or subterfuge.
- c. Health and Safety Code section 11377, subdivision (a), and Business and Professions Code section 4060, in that Respondent possessed a controlled substance classified in Schedule IV, which is not a narcotic drug, without a valid prescription.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Laws Governing Pharmacy)

19. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that on dates uncertain for several months prior to Respondent’s termination from employment at
///

1 the Bel Air Pharmacy store, Respondent violated laws governing pharmacy as set forth in
2 paragraphs 15 through 18, above.

3 **DISCIPLINE CONSIDERATIONS**

4 20. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges that on or about July 1, 2005, a prior disciplinary action entitled "In the
6 Matter of the Accusation Against Sonya Lee Wells before the Board of Pharmacy," Case Number
7 2804, became final. Respondent's license was revoked with revocation stayed and placed on
8 probation for a period of five (5) years for embezzling the controlled substance Talwin NX (a
9 compound of pentazocine hydrochloride and naloxone hydrochloride, a Schedule IV narcotic),
10 unlawful self-administration and possession of Talwin NX, and working as a pharmacist while
11 under the influence of Talwin NX. That decision is now final and is incorporated by reference as if
12 fully set forth.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacist License Number RPH 41039, issued to Sonya Lee
17 Wells;
- 18 2. Ordering Sonya Lee Wells to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.
- 22

23
24 DATED: 11/4/13



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

25
26
27
28 SA2013112842
11182589.doc