

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 JEFFREY M. PHILLIPS  
Deputy Attorney General  
4 State Bar No. 154990  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-6292  
Facsimile: (916) 327-8643  
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. 4988

12 **HEATHER IRENE SUMMERS**

13 **2200 Jewell Lane, #2**  
14 **Redding, CA 96001**

**ACCUSATION**

15 **Pharmacy Technician Registration No. TCH**  
16 **122094**

Respondent.

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 April 2, 2012, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 122094 to Heather Irene Summers (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and expired on March 31, 2014. The registration is currently cancelled.

25 //

26 //

27 //

28

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

9 **STATUTORY PROVISIONS**

10 5. Section 4022 of the Code states

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

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

15 (b) Any device that bears the statement: "Caution: federal law restricts  
16 this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of  
17 similar import, the blank to be filled in with the designation of the practitioner  
18 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  
20 dispensed only on prescription or furnished pursuant to Section 4006.

21 5. Section 4301 of the Code states:

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

26 ...

27 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit,  
28 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.

....

(h) The administering to oneself, of any controlled substance, or the use of any  
dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
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.

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 6. Section 4059, subdivision (a) of the Code states:

4 (a) A person may not furnish any dangerous drug, except upon the prescription of a  
5 physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish  
6 any dangerous device, except upon the prescription of a physician, dentist, podiatrist,  
7 optometrist, or veterinarian.

8 7. Section 4060 of the Code states:

9 No person shall possess any controlled substance, except that furnished to a person  
10 upon the prescription of a physician, dentist, podiatrist, or veterinarian, or  
11 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order  
12 issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner  
13 pursuant to Section 2836.1 or a physician assistant pursuant to Section 3502.1, a  
14 naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either  
15 subparagraph D of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph  
16 (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession  
17 of any controlled substance by a manufacturer, wholesaler, pharmacy, physician,  
18 podiatrist, dentist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
19 practitioner, or physician assistant, when in stock in containers correctly labeled with  
20 the name and address of the supplier or producer.

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

24 8. Section 11173, subdivision (a) of the California Health and Safety Code states:

25 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt  
26 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,  
27 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

### 28 COST RECOVERY

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

### DRUGS

10. **Alprazolam**, the generic name for Xanax, is a Schedule IV controlled substance  
under California Health and Safety Code section 11057(d)(1), and is classified as a dangerous

1 drug pursuant to Business and Professions Code section 4022. Alprazolam tablets are indicated  
2 for the management of anxiety disorder or the short-term relief of symptoms of anxiety.

3 11. **"Hydrocodone"** Hydrocodone bitartate/acetaminophen, also known by the brand  
4 names Vicodin, Norco, Zydone, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a  
5 narcotic Schedule III controlled substance as designated by Health and Safety Code section  
6 11056(e)(4), and is a dangerous drug pursuant to Business and Professions Code section 4022.  
7 Hydrocodone is used as a narcotic analgesic in the relief of pain.

8 12. **"Clonazepam"** is a Schedule IV controlled substance as designated by Health and  
9 Safety Code section 11057, subdivision (d)(7).

10 13. **"Suboxone"**, a combination drug containing buprenorphine and naloxone, is  
11 classified as a Schedule III controlled substance.

12 14. **"Heroin"** is a Schedule I controlled substance as designated by Health and Safety  
13 Code section 11054(c)(11).

#### 14 COST RECOVERY

15 15. Code section 125.3 provides, in pertinent part, that the Board may request the  
16 administrative law judge to direct a licentiate found to have committed a violation or violations of  
17 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
18 enforcement of the case.

#### 19 FIRST CAUSE FOR DISCIPLINE

##### 20 **(Unprofessional Conduct – Theft of Controlled Substances)**

21 16. Respondent is subject to disciplinary action under Business and Professions Code  
22 section 4301, subdivision (f) for committing an act involving moral turpitude, dishonesty, fraud or  
23 deceit in that during the period from about May 2013 through on or about August 2, 2013, while  
24 Respondent was employed as a pharmacy technician at Wal-Mart Pharmacy on South Main  
25 Street, Red Bluff, California, Respondent diverted approximately 3,000 dosage unites of  
26 Hydrocodone/ acetaminophen 10/325mg, 500 dosage units of alprazolam 2 mgn 100 dosage  
27 unites of clonazepam 2mg, and 45 dosage unites of Suboxone for the purpose of selling to trade  
28 for heroin and for self-administration. This was a violation of pharmacy Law. On or about

1 August 2, 2013, Respondent was fired from Wal-Mart as a Pharmacy Technician and arrested by  
2 the Red Bluff Police.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Unlawful Possession of Controlled Substances)**

5 17. Respondent is subject to disciplinary action under Business and Professions Code  
6 section 4301, subdivision (j)(o) for violating Business and Professions Code section 4060 in that  
7 Respondent possessed controlled substances without a prescription, as more fully set forth in  
8 paragraphs 15, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct – Unlawful Self-Administration of Controlled Substances)**

11 18. Respondent is subject to disciplinary action under Business and Professions Code  
12 sections 4301((h)(j) for violating Business and Professions Code section 4059(a) and section 4060  
13 and Health & Safety Code section 11170 in that Respondent obtained controlled substances  
14 without a prescription for self-administration, as more fully set forth in paragraph 16, above.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct – Unlawful Furnishing of a Controlled Substances)**

17 19. Respondent is subject to disciplinary action under Business and Professions Code  
18 sections 4301((h)(j) for violating Business and Professions Code section 4059(a) and section 4060  
19 and Health & Safety Code section 11171 in that Respondent obtained controlled substances  
20 without a prescription for the purpose of selling to trade for heroin, as more fully set forth in  
21 paragraph 16, above.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Conviction of Crime)**

24 20. Respondent has subjected her license to discipline pursuant to Code section 4301,  
25 subdivision (l), on the grounds of unprofessional conduct, in that Respondent was convicted of  
26 crimes that are substantially related to the qualifications, functions, and duties of a pharmacy  
27 technician, as follows:  
28

1 a. On or about October 21, 2013, in the case of *People v. Heather Irene Summers*,  
2 Superior Court of Tehama County Case No. NCR 87738, Respondent was convicted by her plea  
3 of no contest of second degree burglary in violation of Penal Code section 459, a felony. The  
4 circumstances of the crime are that on or about August 2, 2013, Respondent did unlawfully enter  
5 a commercial building occupied by Wal-Mart with the intent to commit larceny and a felony.  
6 Respondent admitted to the Red Bluff Police that she diverted approximately 3,000 dosage unites  
7 of Hydrocodone/ acetaminophen 10/325mg, 500 dosage units of alprazolam 2 mgn 100 dosage  
8 unites of clonazepam 2mg, and 45 dosage unites of Suboxone for the purpose of selling to trade  
9 for heroin and for self-administration.

10 b. On or about January 28, 2015, in the case of *People v. Heather Irene Summers*,  
11 Superior Court of Shasta County Case No. MC RE CRF 140007420, Respondent was convicted  
12 by her plea of guilty to violating Penal Code section 647(H) (Loitering), a misdemeanor. The  
13 circumstances of the crime are that on or about December 4, 2014, Respondent did willfully and  
14 unlawfully loiter, prowl and wander upon the private property of another without visible business  
15 with the owner and occupant thereof. Respondent admitted to a Redding Police Officer that she  
16 was in a neighborhood using a stolen baby stroller to transport stolen items from the yards in the  
17 neighborhood.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Act Involving Moral Turpitude)**

20 21. Respondent has subjected her license to discipline pursuant to Code section 4301,  
21 subdivision (f), on the grounds of unprofessional conduct, in that on or about September 14, 2010,  
22 Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as  
23 set forth in paragraphs 16 through 20.

24  
25 **PRAYER**

26 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Pharmacy issue a decision:  
28

1           1.    Revoking or suspending Pharmacy Technician Registration Number TCH 122094,  
2 issued to Heather Irene Summers.;

3           2.    Ordering Heather Irene Summers to pay the Board of Pharmacy the reasonable costs  
4 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
5 section 125.3;

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

7  
8 DATED: 11/24/15                      Virginia Herold

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

9  
10  
11  
12  
13 SA2013113616  
14 11721547  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28