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

11 In the Matter of the Accusation Against:

Case No. 5048

12 **WANDA L. ADAMS**
18215 Foothill Blvd., #161
13 Fontana, CA 92335

A C C U S A T I O N

(Gov. Code, § 11503.)

14 **Pharmacy Technician Registration No.**
15 **TCH 28375**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On February 16, 1999, the Board issued Pharmacy Technician Registration Number
23 TCH 28375 to Respondent Wanda L. Adams. The registration was in full force and effect at all
24 times relevant to the charges brought in this Accusation and, unless renewed, it will expire on
25 November 30, 2016.

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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 4. Code sections 118 and 4300.1 provide that the suspension, expiration, forfeiture,
6 cancellation or surrender of a license will not deprive the Board of jurisdiction to institute or
7 continue a disciplinary proceeding against a licensee.

8 5. Code section 4300 provides that every license may be suspended or revoked.

9 **STATUTES**

10 6. Code section 4301 states in relevant part:

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

14 ...

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

17 ...

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

20 ...

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

25 7. Code section 4307 states in relevant part:

26 (a) Any person who has been denied a license or whose license has been
27 revoked or is under suspension, or who has failed to renew his or her license while
28 it was under suspension, or who has been a manager, administrator, owner,
member, officer, director, associate, or partner of any partnership, corporation,

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2 firm, or association whose application for a license has been denied or revoked, is
3 under suspension or has been placed on probation, and while acting as the manager,
4 administrator, owner, member, officer, director, associate, or partner had
5 knowledge of or knowingly participated in any conduct for which the license was
6 denied, revoked, suspended, or placed on probation, shall be prohibited from
7 serving as a manager, administrator, owner, member, officer, director, associate, or
8 partner of a licensee as follows:

9 (1) Where a probationary license is issued or where an existing license is
10 placed on probation, this prohibition shall remain in effect for a period not to
11 exceed five years.

12 (2) Where the license is denied or revoked, the prohibition shall continue
13 until the license is issued or reinstated.

14 (b) "Manager, administrator, owner, member, officer, director, associate,
15 or partner," as used in this section and Section 4308, may refer to a pharmacist or
16 to any other person who serves in that capacity in or for a licensee.

17 (c) The provisions of subdivision (a) may be alleged in any pleading filed
18 pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
19 the Government Code. However, no order may be issued in that case except as to a
20 person who is named in the caption, as to whom the pleading alleges the
21 applicability of this section, and where the person has been given notice of the
22 proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of
23 Division 3 of the Government Code. The authority to proceed as provided by this
24 subdivision shall be in addition to the board's authority to proceed under Section
25 4339 or any other provision of law.

26 DRUG STATUTES

27 8. Code section 4059 states in relevant part:

28 (a) A person may not furnish any dangerous drug, except upon the
prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
dangerous device, except upon the prescription of a physician, dentist, podiatrist,
optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

9. Code section 4329 states:

Any nonpharmacist who takes charge of or acts as supervisor, manager, or pharmacist-in-
charge of any pharmacy, or who compounds or dispenses a prescription or furnishes
dangerous drugs except as provided in this chapter [The Pharmacy Law], is guilty of a
misdemeanor.

1 10. Health and Safety Code section 11352.1 states in relevant part:

2 (a) The Legislature hereby declares that the dispensing and furnishing of
3 prescription drugs, controlled substances, and dangerous drugs or dangerous
4 devices without a license poses a significant threat to the health, safety, and welfare
of all persons residing in the state. It is the intent of the Legislature in enacting this
provision to enhance the penalties attached to this illicit and dangerous conduct.

5 (b) Notwithstanding Section 4321 of the Business and Professions Code, and
6 in addition to any other penalties provided by law, any person who knowingly and
7 unlawfully dispenses or furnishes a dangerous drug or dangerous device, or any
8 material represented as, or presented in lieu of, any dangerous drug or dangerous
9 device, as defined in Section 4022 of the Business and Professions Code, or who
10 knowingly owns, manages, or operates a business that dispenses or furnishes a
11 dangerous drug or dangerous device or any material represented as, or presented in
12 lieu of, any dangerous drug or dangerous device, as defined in Section 4022 of the
Business and Professions Code without a license to dispense or furnish these
products, shall be guilty of a misdemeanor. Upon the first conviction, each violation
shall be punishable by imprisonment in a county jail not to exceed one year, or by a
fine not to exceed five thousand dollars (\$5,000), or by both that fine and
imprisonment. Upon a second or subsequent conviction, each violation shall be
punishable by imprisonment in a county jail not to exceed one year, or by a fine not
to exceed ten thousand dollars (\$10,000), or by both that fine and imprisonment.

13 **REGULATIONS**

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15 11. California Code of Regulations, title 16, section 1770 states:

16 For the purpose of denial, suspension, or revocation of a personal or facility
17 license pursuant to Division 1.5 (commencing with Section 475) of the Business
18 and Professions Code, a crime or act shall be considered substantially related to the
19 qualifications, functions or duties of a licensee or registrant if to a substantial
20 degree it evidences present or potential unfitness of a licensee or registrant to
perform the functions authorized by his license or registration in a manner
consistent with the public health, safety, or welfare.

21 **COST RECOVERY**

22 12. Code section 125.3 provides that the Board may request the administrative law judge
23 to order a licentiate found to have committed a violation of the licensing act to pay a sum not to
24 exceed the reasonable costs of the Board's investigation and enforcement of the case.

25 **DRUG CLASSIFICATIONS**

26 13. Viagra is a brand name for sildenafil. It is indicated for erectile dysfunction and
27 pulmonary arterial hypertension. Viagra is a dangerous drug and is available only by prescription.
28 (Bus. & Prof. Code, § 4022.)

1 **STATEMENT OF FACTS**

2 14. Respondent worked as a Pharmacy Technician at Vons Pharmacy No. 2264 in
3 Pasadena between October 21, 2004 and June 19, 2012.

4 15. On June 6, 2012, Respondent stole two tablets of Viagra from her workplace. On
5 June 15, 2012, she stole six tablets of Viagra. The drugs were worth \$196.16.

6 16. On June 18, 2012, Respondent admitted to a Vons Loss Prevention employee that she
7 had been stealing Viagra for at least two years at a rate of three to five tablets every one to three
8 months. Respondent confessed that she sold the drugs to a drug trafficker.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct—Commission of Dishonest Acts)**

11 17. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
12 together with California Code of Regulations, title 16, section 1770, for unprofessional conduct
13 because she committed an act involving moral turpitude, dishonesty, fraud, deceit and corruption.
14 Respondent stole eight tables of Viagra from Vons Pharmacy and admitted to stealing other
15 tablets of Viagra over the course of two years. Complainant realleges paragraphs 14–16.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct—Violate Drug Statutes)**

18 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
19 for unprofessional conduct because she violated state statutes regulating dangerous drugs.
20 Respondent violated the following state statutes regulating dangerous drugs:

21 a. **Code section 4059 (a):** Code section 4059, subdivision (a), prohibits the furnishing of
22 any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
23 veterinarian, or naturopathic doctor. Respondent violated Code section 4059, subdivision (a), by
24 furnishing Viagra to another person without that person having a prescription therefor.

25 b. **Code section 4329:** Code section 4329 criminalizes the furnishing of dangerous
26 drugs except as provided under the Pharmacy Law. Respondent violated Code section 4329 by
27 stealing Viagra and furnishing it to another person. Complainant realleges paragraphs 14–17.

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1 c. **Health and Safety Code section 11352.1:** Health and Safety Code section 11352.1
2 criminalizes the furnishing of dangerous drugs by any person not licensed to furnish them. As a
3 Pharmacy Technician, Respondent was not licensed to dispense or furnish dangerous drugs.
4 Respondent stole dangerous drugs and furnished them to another person. Complainant realleges
5 paragraphs 14–17.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct—Violate Pharmacy Law)**

8 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
9 for unprofessional conduct because she violated and conspired to violate provisions of the
10 Pharmacy Law, state laws governing pharmacy and regulations established by the Board.
11 Complainant realleges paragraphs 14–18.

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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 Registration Number TCH 28375, issued to Wanda L. Adams;

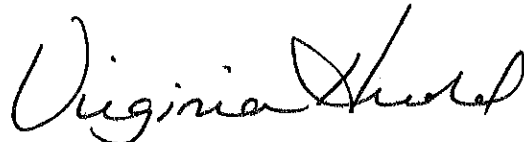
2. Prohibiting Wanda L. Adams from serving as a manger, administrator, owner, member, officer, director, associate or partner of a licensee, pursuant to Business and Professions Code section 4307: (1) until Pharmacy Technician Registration Number TCH 28375 is reinstated, in the case of revocation; or, (2) in the event of probation, for the lesser of the probationary term or five years;

3. Ordering Wanda L. Adams to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: _____

8/29/16



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

LA2014510943