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

11 In the Matter of the Accusation Against:

Case No. 5151

12 **PAUL HOANG**
13 **15568 Brookhurst Street, Suite 370**
Westminster, CA 92683

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **561189**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) 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 or about April 28, 2004, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 561189 to Paul Hoang (Respondent). The Pharmacy Technician
24 Registration was in full force and effect at all times relevant to the charges brought herein and will
25 expire on September 30, 2015, unless renewed.

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1 7. Section 4116 of the Code states:

2 (a) No person other than a pharmacist, an intern pharmacist, an authorized
3 officer of the law, or a person authorized to prescribe shall be permitted in that area,
4 place, or premises described in the license issued by the board wherein controlled
5 substances or dangerous drugs or dangerous devices are stored, possessed, prepared,
6 manufactured, derived, compounded, dispensed, or repackaged. However, a
7 pharmacist shall be responsible for any individual who enters the pharmacy for the
8 purposes of receiving consultation from the pharmacist or performing clerical,
9 inventory control, housekeeping, delivery, maintenance, or similar functions relating to
10 the pharmacy if the pharmacist remains present in the pharmacy during all times as the
11 authorized individual is present.

12

13 8. Section 4301 of the Code states:

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

18 ...

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

24 ...

25 (q) Engaging in any conduct that subverts or attempts to subvert an
26 investigation of the board.

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28 9. Title 16, California Code of Regulations, ("CCR") section 1714 states in part:

 ...

 (d) Each pharmacist while on duty shall be responsible for the security of the
prescription department, including provisions for effective control against theft or
diversion of dangerous drugs and devices, and records for such drugs and devices.
Possession of a key to the pharmacy where dangerous drugs and controlled substances
are stored shall be restricted to a pharmacist.

 (e) The pharmacy owner, the building owner or manager, or a family member
of a pharmacist owner (but not more than one of the aforementioned) may possess a
key to the pharmacy that is maintained in a tamper evident container for the purpose of
1) delivering the key to a pharmacist or 2) providing access in case of emergency. An
emergency would include fire, flood or earthquake. The signature of the

1 pharmacist-in-charge shall be present in such a way that the pharmacist may readily
2 determine whether the key has been removed from the container.

3

4 COST RECOVERY

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

9 FACTS

10 11. At all times alleged herein, Respondent was the Pharmacy Manager of Orange
11 Pharmacy and is the son of Orange Pharmacy's owner and Pharmacist-in-Charge, Tue Ngoc
12 Hoang (hereinafter "Tue Hoang"). Tue Hoang held a pharmacist license and the premises permit
13 for Orange Pharmacy. Both licenses were revoked by the Board effective September 16, 2013.

14 12. On or about October 3, 2013 the Board received a complaint that Orange Pharmacy
15 was still filling prescriptions as of October 3, 2013. On October 4, 2013, Board inspectors drove
16 by Orange Pharmacy, which was located at 9972 Bolsa Avenue, Suite 103, in Westminster,
17 California. The inspectors observed customers inside the pharmacy and the pharmacy in operation.

18 13. On or about October 8, 2013, Orange Pharmacy and Tue Hoang were notified through
19 counsel to cease practice. On or about October 23, 2013, Board inspectors conducted a site visit
20 of Orange Pharmacy. On this visit the inspectors observed that the pharmacy was open for
21 business and there was a person in the waiting area. Tue Hoang was present when the inspectors
22 arrived, as were two pharmacy technicians, C.T. and K.N. The Board inspectors reminded Tue
23 Hoang that his pharmacist license and pharmacy permit had been revoked and advised him about
24 what he needed to do with the drugs and patient records that were still in the pharmacy. He was
25 instructed to conduct a complete inventory of the dangerous drugs and controlled substances at
26 Orange Pharmacy, provide the inventory to the Board inspectors and provide the name of the
27 licensed facility where the drugs and pharmacy records would be transferred. Hoang was given a
28 "Notice to Stop Unlicensed Activity-Operating a Pharmacy on a Revoked Pharmacy License."
Respondent arrived at Orange Pharmacy and was also instructed by the Board inspectors that the

1 drugs and records had to be moved to a licensed facility within 24 hours in accordance with the
2 directions on the Notice.

3 14. By October 29, 2013, Tue Hoang and Orange Pharmacy had not complied with the
4 Notice to Stop Unlicensed Activity. A Board inspector visited Orange Pharmacy's location but
5 could not determine if drugs and records had been removed.

6 15. Since Tue Hoang and Orange Pharmacy had not complied with the Notice to Stop
7 Unlicensed Activity, they were notified through counsel on November 1, 2013 to be present at a
8 site visit on November 5, 2013, during which time a licensed pharmacist, hired by Tue Hoang, was
9 to perform an inventory of the dangerous drugs and controlled substances in the presence of Board
10 inspectors. In addition, on this date, records of acquisition and disposition must be transferred to a
11 Board-licensed facility, patient records must be placed in a sealed container, and all computers
12 containing patient information must be transferred to a Board-licensed facility.

13 16. On November 5, 2013, Board inspectors arrived at 9972 Bolsa Avenue, Suite 103, for
14 the site visit. Respondent arrived with a key to the pharmacy, which allowed Respondent access
15 to all areas of the pharmacy, including the area where dangerous drugs and controlled substances
16 were stored. Also present were Tue Hoang's bankruptcy attorney and the bankruptcy trustee.
17 Tue Hoang was not present during the site visit. Respondent provided the inspectors with an
18 inventory sheet from a reverse distributor¹ and stated that the inventory was performed on Sunday,
19 November 3, 2013, two days before the scheduled site visit. When asked who was present for the
20 inventory, Respondent stated that a pharmacist named "Christina" was present, as well as
21 pharmacy technicians C.T. and K.N., Respondent, and a representative from the reverse
22 distributor. Later Respondent stated the pharmacist's name was "Christine" but he did not know
23 her last name and stated she was a friend of a friend.

24
25
26 ¹ A "reverse distributor" is defined as "... every person who acts as an agent for
27 pharmacies, drug wholesalers, manufacturers, and other entities by receiving, inventorying, and
28 managing the disposition of outdated or nonsalable dangerous drugs. (Bus. & Prof. Code section
4040.5.)

1 17. The inspector asked Respondent if the pharmacy computer was still on the premises.
2 The pharmacy computer contained confidential patient information. Respondent stated it was not
3 on the premises. He stated he did not know where it was and that the computer was broken.

4 18. The inspector advised Respondent that the drugs and records, including prescriptions,
5 invoices and computer, were to be sent to a Board-licensed location. Respondent refused to
6 comply. Board inspectors sealed the door to the pharmacy area, which still contained prescription
7 records, with tamper-evident tape.

8 19. The Board inspector contacted the reverse distributor and received an inventory of
9 dangerous drugs and controlled substances returned to the reverse distributor on November 3,
10 2013. The inventory from the reverse distributor did not match the inventory provided to the
11 inspector by Respondent.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct – Subverting Investigation of the Board)**

14 20. Respondent is subject to discipline pursuant to Code section 4301, subdivision (q) for
15 engaging in conduct that subverts or attempts to subvert the Board's investigation as to the
16 complete accountability of Orange Pharmacy's records and dangerous drugs, as follows and as
17 more fully set forth in paragraphs 11 – 19 and incorporated by reference herein:

18 a. Respondent entered Orange Pharmacy on November 3, 2013 and conducted an
19 inventory of dangerous drugs and controlled substances outside the presence of the Board's
20 inspectors two days before the scheduled inventory was to occur;

21 b. Respondent claimed the inventory was performed by a licensed pharmacist but failed
22 to identify the pharmacist;

23 c. Respondent refused to move all acquisition and disposition records maintained by
24 Orange Pharmacy to a Board-licensed location as required by the Board; and,

25 d. Respondent refused to disclose to the Board the whereabouts of the pharmacy's
26 computer, which contained confidential patient information.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Unlawful Access to Pharmacy)

3 21. Respondent is subject to discipline pursuant to Code section 4301, subdivision (o), for
4 engaging in unprofessional conduct by violating the operational standards and security measures
5 set forth in Code section 4116, subdivision (a) and title 16, CCR, section 1714, subdivisions (d)
6 and (e) as follows and as more fully set forth in paragraphs 11 – 19 and incorporated by reference
7 herein:

8 a. Respondent had possession of the pharmacy keys and accessed the pharmacy on
9 November 3, 2013, to conduct an inventory of dangerous drugs and controlled substances with an
10 alleged pharmacist that Respondent could not identify;

11 b. Respondent had possession of the pharmacy keys and accessed the pharmacy on
12 November 3, 2013 to remove dangerous drugs and controlled substances from the pharmacy; and,

13 c. Respondent had possession of the pharmacy keys, which was not in a tamper evident-
14 container, and accessed the pharmacy on November 5, 2013.

15 PRAYER

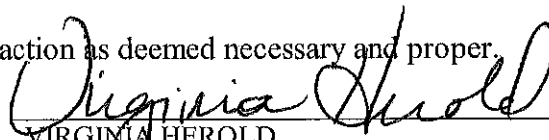
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Pharmacy issue a decision:

18 1. Revoking or suspending Pharmacy Technician Registration Number TCH 561189,
19 issued to Paul Hoang;

20 2. Ordering Paul Hoang to pay the Board of Pharmacy the reasonable costs of the
21 investigation and enforcement of this case, pursuant to Business and Professions Code section
22 125.3; and,

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

24 DATED: 8/8/14


25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant