

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 THOMAS L. RINALDI
Supervising Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **JANICE BING**
8558 Century Blvd
13 Paramount, CA 90723
14 Pharmacy Technician Registration
No. TCH 14815
15
16 Respondent.

Case No. 5461
A C C U S A T I O N

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 January 6, 1995, the Board issued Pharmacy Technician Registration No.
23 TCH 14815 to Janice Bing (Respondent). The Pharmacy Technician Registration was in full
24 force and effect at all times relevant to the charges brought herein and will expire on October 31,
25 2016, unless renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 4300 provides in pertinent part, that every license issued by the Boards is
2 subject to discipline, including suspension or revocation.

3 5. Section 4300.1 states:

4 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
5 operation of law or by order or decision of the board or a court of law, the placement of a license
6 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
7 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
8 proceeding against, the licensee or to render a decision suspending or revoking the license."

9 **STATUTORY AND REGULATORY PROVISIONS**

10 6. Section 4301 states, in pertinent part:

11 "The board shall take action against any holder of a license who is guilty of unprofessional
12 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
13 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, fraud, deceit, or
16 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
17 whether the act is a felony or misdemeanor or not.

18

19 "(l) The conviction of a crime substantially related to the qualifications, functions, and
20 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
21 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
22 substances or of a violation of the statutes of this state regulating controlled substances or
23 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
24 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
25 The board may inquire into the circumstances surrounding the commission of the crime, in order
26 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
27 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
28 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

8

9 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
10 board."

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

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

18 **COST RECOVERY**

19 8. Section 125.3 provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
23 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
24 included in a stipulated settlement.

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1 9. **CONTROLLED SUBSTANCE / DANGEROUS DRUGS**

2 “Tramadol¹,” is used for treating moderate to moderately severe pain, restless leg
3 syndrome, acid reflux, and fibromyositis. It is categorized as a dangerous drug within the meaning
4 of section 4022.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Conviction of a Substantially Related Crime)**

7 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
8 490, in conjunction with California Code of Regulations, title 16, section 1770, in that,
9 Respondent was convicted of a crime substantially related to the qualifications, functions or
10 duties of a pharmacy technician as follows:

11 a. On or about November 19, 2014, Respondent was convicted of one misdemeanor
12 count of violating Penal Code section 502, subdivision (c) [unauthorized computer access and
13 fraud] in the criminal proceeding entitled *The People of the State of California v. Janice Bing*
14 (Super. Ct. L.A. County, 2014, No. NA099132-01). The Court sentenced Respondent to serve 2
15 days in jail and placed her on 3 years probation, with terms and conditions.

16 b. The circumstances surrounding the conviction are that on or between at least 2013
17 and 2014, while working as a pharmacy technician at the Veterans Affairs Hospital in Long
18 Beach, Respondent admitted to diverting various medications, including tramadol, blood pressure
19 drugs, and antibiotics, for her personal use and distribution to other employees. Respondent
20 obtained the medications by taking them from the mail returns or making manual overrides to
21 ScriptPro.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

24 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
25 that on or between at least 2013 and 2014, Respondent committed acts involving moral turpitude,
26 dishonesty, fraud, deceit, or corruption with the intent to substantially benefit herself, or

27 ¹Effective August 18, 2014 Tramadol became a Schedule IV controlled substances
28 pursuant to United States Code title 21, section 812.

1 substantially injure another. Complainant refers to, and by reference incorporates, the allegations
2 set forth above in paragraph 10, as though set forth fully.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Attempt to Subvert Investigation)**

5 12. Respondent is subject to disciplinary action under section 4301, subdivision (q), in
6 that Respondent attempted to subvert an investigation of the board when she ignored two letters
7 sent by the Board inspector requesting an interview related to the events leading to her arrest
8 while working at the Veterans Affairs Hospital in Long Beach. Complainant refers to, and by this
9 reference incorporates, the allegations set forth above in paragraphs 10, as though set forth fully.

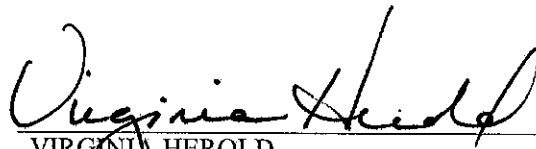
10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board issue a decision:

- 13 1. Revoking or suspending Pharmacy Technician Registration No. TCH 14815, issued
14 to Janice Bing;
- 15 2. Ordering Janice Bing to pay the Board the reasonable costs of the investigation and
16 enforcement of this case, pursuant to section 125.3; and
- 17 3. Taking such other and further action as deemed necessary and proper.

18
19
20 DATED: _____

2/19/16



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

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