

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 SYDNEY M. MEHRINGER  
Deputy Attorney General  
4 State Bar No. 245282  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2537  
6 Facsimile: (213) 897-2804  
E-mail: Sydney.Mehringer@doj.ca.gov  
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 **STEVEN L. ZAFLOW**  
13 **11679 Erwin Street**  
**North Hollywood, CA 91606**  
14 **Pharmacy Technician Registration No. TCH**  
15 **90163**  
16 Respondent.

Case No. 5462

**A C C U S A T I O N**

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 March 27, 2009, the Board of Pharmacy ("Board") issued Pharmacy  
22 Technician Registration Number TCH 90163 to Steven L. Zaflow ("Respondent"). The Pharmacy  
23 Technician Registration expired July 31, 2014, was not renewed, and was cancelled on November  
24 2, 2014 pursuant to Business and Professions Code section 4402, subdivision (e).<sup>1</sup>

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26 <sup>1</sup> Business and Professions Code section 4402, subdivision (e) states that "Any other license [i.e.,  
27 not a pharmacist license] issued by the board may be canceled by the board if the license is not  
28 renewed within 60 days after its expiration. Any license canceled under this subdivision may not  
be reissued. Instead, a new application will be required."

**JURISDICTION**

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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 unless otherwise indicated.

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

5 "(a) Every license issued may be suspended or revoked.

6 "(b) The board shall discipline the holder of any license issued by the board, whose default  
7 has been entered or whose case has been heard by the board and found guilty, by any of the  
8 following methods:

9 "(1) Suspending judgment.

10 "(2) Placing him or her upon probation.

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

12 "(4) Revoking his or her license.

13 "(5) Taking any other action in relation to disciplining him or her as the board in its  
14 discretion may deem proper."

15 . . . .

16 5. Section 4300.1 of the Code states:

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

**STATUTES**

23 6. Section 480 of the Code states, in pertinent part:

24 "(a) A board may deny a license regulated by this code on the grounds that the applicant has  
25 one of the following:

26 . . . .

27 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to  
28 substantially benefit himself or herself or another, or substantially injure another."

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7. Section 4060 of the Code states, in pertinent part:

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

....

8. Section 4301 of the Code states, in pertinent part:

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

....

"(f) The commission of any act involving moral turpitude, dishonesty, 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.

....

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

....

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

1 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
2 substances or of a violation of the statutes of this state regulating controlled substances or  
3 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
4 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
5 The board may inquire into the circumstances surrounding the commission of the crime, in order  
6 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
7 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
8 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
9 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
10 of this provision. The board may take action when the time for appeal has elapsed, or the  
11 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
12 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
13 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
14 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
15 indictment.

16 . . . .

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

21 "(p) Actions or conduct that would have warranted denial of a license."

22 . . . .

23 9. Health and Safety Code section 11170 states, "[n]o person shall prescribe, administer,  
24 or furnish a controlled substance for himself."

25 10. Health and Safety Code section 11350, subdivision (a) states:

26 "(a) Except as otherwise provided in this division, every person who possesses (1) any  
27 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
28 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or

1 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
2 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
3 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
4 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of  
5 Section 1170 of the Penal Code."

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

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

### 13 COST RECOVERY

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

### 18 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

19 13. Carisoprodol, a generic name for Soma, is a dangerous drug pursuant to Code section  
20 4022. It is a centrally acting skeletal muscle relaxant.

21 14. Hydrocodone/acetaminophen ("hydrocodone/apap"), a generic name for Vicodin,  
22 Norco, and Lortab, is used to treat moderate to severe pain, is a controlled substance pursuant to  
23 Health and Safety Code section 11056, subdivision (e)(4), and is a dangerous drug pursuant to  
24 Code section 4022. As of October 6, 2014, hydrocodone/apap became a Schedule II controlled  
25 substance pursuant to United States Code, title 21, section 812.

26 15. Ibuprofen, sold under the brand names Advil, Motrin, and Ibuprofen, is a medication  
27 used to relieve pain, swelling and/or inflammation. 200mg dosages of Ibuprofen are sold over the  
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1 counter, while 400mg, 600mg and 800mg dosages are dangerous drugs pursuant to Code section  
2 4022.

3 16. Lorazepam, the generic name for Ativan, is used to treat anxiety. It is a Schedule IV  
4 controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(16) and is  
5 a dangerous drug pursuant to Code section 4022.

6 17. Tylenol with Codeine is a controlled substance pursuant to Health and Safety Code  
7 section 11058, subdivision (c)(2). Tylenol #3 with Codeine contains 300mg of acetaminophen  
8 and 30mg of codeine. Tylenol #4 with Codeine contains 300mg of acetaminophen and 60mg of  
9 codeine.

### 10 BACKGROUND FACTS

11 18. Respondent was employed as a pharmacy technician at Rite Aid #5433 ("Rite Aid") in  
12 the Westwood area of Los Angeles, California between March 2014 and November 4, 2014.

13 19. Video surveillance of Rite Aid's pharmacy taken on October 27, 2014 and November  
14 4, 2014 shows Respondent taking medications, including hydrocodone/apap and carisoprodol  
15 from the pharmacy. The video surveillance also shows Respondent performing pharmacy  
16 technician duties even though his license expired on July 31, 2014 and was cancelled on  
17 November 2, 2014.

18 20. On or about November 4, 2014, Rite Aid Loss Prevention officers had a meeting with  
19 Respondent to confront him about diverting medication from the pharmacy. Respondent admitted  
20 to taking various medications, including Ibuprofen 600mg and 800mg, Tylenol #3 with Codeine  
21 and Tylenol #4 with Codeine, hydrocodone/apap, and lorazepam. Respondent removed 15 tablets  
22 of Tylenol #4 with Codeine from his pockets. Respondent promised to show the Loss Prevention  
23 officers where he had hidden other pills but instead, he ran out of the store. Respondent reached  
24 the side of the building and stopped running. Respondent gave 15 tablets of Tylenol #3 with  
25 Codeine to a Loss Prevention officer, then pretended the officer hit him, and threw himself to the  
26 ground. Once Respondent got up, he ran into another Loss Prevention officer, pushed her out of  
27 the way, and ran into the parking structure. He then drove out of the parking structure without  
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1 paying and in the process, he drove through and broke the security drop down arm at the exit of  
2 the parking structure.

3 **FIRST CAUSE FOR DISCIPLINE**

4 21. Respondent is subject to disciplinary action under Code section 4301, subdivision (l)  
5 on the grounds of unprofessional conduct in that he committed crimes that are substantially  
6 related to the qualifications, functions or duties of a registered pharmacy technician that to a  
7 substantial degree evidence his present or potential unfitness the perform the functions authorized  
8 by his registration in a manner consistent with the public health, safety, or welfare as follows:

9 (a) On or about May 14, 2015, after pleading nolo contendere, Respondent was convicted  
10 of one misdemeanor count of violating Penal Code section 484, subdivision (a) [theft] and one  
11 misdemeanor count of violating Penal Code section 594, subdivision (a) [vandalism] in the  
12 criminal proceeding entitled *The People of the State of California v. Steven Zaflow* (Super. Ct.  
13 Los Angeles County, 2015, No. 5WA00445). The Court placed Respondent on 36 months  
14 probation, ordered him to serve 1 day in Los Angeles County Jail, ordered him to serve 44 days of  
15 Caltrans, and further ordered him to stay 100 yards away from Rite Aid. The facts and  
16 circumstances underlying the convictions are set forth in paragraph 20, which Complainant  
17 incorporates by reference as though fully set forth herein.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unlawful Possession of Controlled Substances)**

20 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),  
21 in conjunction with Code section 4060, on the grounds of unprofessional conduct in that on  
22 October 27, 2014 and November 4, 2014, Respondent, who was a pharmacy technician at Rite  
23 Aid, unlawfully possessed controlled substances, to wit: hydrocodone/apap, lorazepam, Tylenol  
24 #3 with Codeine, and Tylenol #4 with Codeine. Complainant incorporates by reference  
25 paragraphs 18 through 20, as though fully set forth herein.

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**THIRD CAUSE FOR DISCIPLINE**

**(Violating Drug Statutes)**

23. Respondent is subject to disciplinary action under Code section 4301, subdivision (j), in conjunction with Health and Safety Code section 11350, subdivision (a) and Health and Safety Code section 11170, on the grounds of unprofessional conduct in that on October 27, 2014 and November 4, 2014, Respondent, who was a pharmacy technician at Rite Aid, violated California rules regulating controlled substances when he unlawfully possessed and unlawfully furnished to himself controlled substances, to wit, hydrocodone/apap, lorazepam, Tylenol #3 with Codeine, and Tylenol #4 with Codeine. Complainant incorporates by reference paragraphs 18 through 20, as though fully set forth herein.

**FOURTH CAUSE FOR DISCIPLINE**

**(Dishonest Acts)**

24. Respondent is subject to disciplinary action under Code section 4301, subdivision (f) and subdivision (p), in conjunction with Code section 480, subdivision (a)(2), on the grounds of unprofessional conduct in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, and/or corruption. Complainant incorporates by reference paragraphs 18 through 20, as though fully set forth herein.

**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 90163, issued to Steven L. Zaflow;
- 2. Ordering Steven L. Zaflow 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

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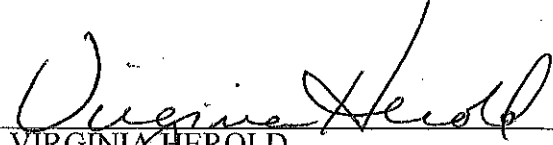


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3. Taking such other and further action as deemed necessary and proper.

DATED:

7/13/15

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

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