

1 EDMUND G. BROWN JR.
Attorney General of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN
Deputy Attorney General
4 State Bar No. 193338
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5341
Facsimile: (916) 327-8643
7 E-mail: Geoffrey.Allen@doj.ca.gov
Attorneys for Complainant

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. 3245

12 **CHELSEA T. VANDERWIEL**

13 11430 Columbia Village Dr.
14 Sonora, California 95370

DEFAULT DECISION AND ORDER

15 Original Pharmacy Technician Registration
16 No. TCH 25777

[Gov. Code, §11520]

17 Respondent.

18 FINDINGS OF FACT

19 1. On or about April 10, 2009, Complainant Virginia Herold, in her official capacity as
20 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
21 Accusation No. 3245 against Chelsea T. Vanderwiel (Respondent) before the Board of Pharmacy.

22 2. On or about May 13, 1998, the Board of Pharmacy (Board) issued Original Pharmacy
23 Technician Registration No. TCH 25777 (License) to Respondent. The License was in full force
24 and effect at all times relevant to the charges brought herein and expired on June 30, 2009, and
25 has not been renewed.

26 3. On or about June 10, 2009, Constance A. Ward, an employee of the Department of
27 Justice, served by Certified and First Class Mail a copy of the Accusation No. 3245 (Accusation),
28 Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code

1 sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which
2 was and is: 11430 Columbia Village Dr., Sonoma, California 95370.

3 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

4 4. Service of the Accusation was effective as a matter of law under the provisions of
5 Government Code section 11505, subdivision (c).

6 5. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
8 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
9 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
10 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

11 Respondent failed to file a Notice of Defense within 15 days after service upon her of
12 the Accusation, and therefore waived her right to a hearing on the merits of the Accusation.

13 6. Government Code section 11520 states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
15 agency may take action based upon the respondent's express admissions or upon other evidence
16 and affidavits may be used as evidence without any notice to respondent.

17 7. Pursuant to its authority under Government Code section 11520, the Board finds
18 Respondent is in default. The Board will take action without further hearing and, based on the
19 evidence on file herein, finds that the allegations in the Accusation are true.

20 8. The total cost for investigation and enforcement in connection with the Accusation
21 are \$2,156.00 as of September 1, 2009.

22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Chelsea T. Vanderwiell has
24 subjected her Original Pharmacy Technician Registration No. TCH 25777 to discipline.

25 2. A copy of the Accusation is attached.

26 3. The agency has jurisdiction to adjudicate this case by default.

27 4. The Board of Pharmacy is authorized to revoke Respondent's Original Pharmacy
28 Technician Registration based upon the following violations alleged in the Accusation:

- 1 a. Respondent violated Business and Professions Code (Code) section 4301, subd. (f) in
2 that Respondent conducted acts involving moral turpitude, dishonesty, fraud, deceit,
3 or corruption
- 4 b. Respondent violated Code section 4301, subds. (j) and (o) in that Respondent violated
5 the statutes of this state regulating controlled substances and dangerous drugs, namely
6 Code section 4060 and/or Health and Safety Code section 11350, subd. (a), by
7 possessing a controlled substance without a prescription.
- 8 c. Respondent violated Code section 4301, subd. (l) in that Respondent was convicted of
9 a crime substantially related to her License and her practice as a pharmacy technician.
- 10 d. Respondent violated Code section 4301, subd. (p) in that Respondent engaged in
11 conduct that would have warranted the denial of her License.


12 ORDER

13 IT IS SO ORDERED that Original Pharmacy Technician Registration No. TCH 25777,
14 heretofore issued to Respondent Chelsea T. Vanderwiel, is revoked.

15 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
16 written motion requesting that the Decision be vacated and stating the grounds relied on within
17 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
18 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

19 This Decision shall become effective on March 2, 2010.

20 It is so ORDERED February 1, 2010.

21 
22 _____
23 KENNETH H. SCHELL, BOARD PRESIDENT
24 FOR THE BOARD OF PHARMACY
25 DEPARTMENT OF CONSUMER AFFAIRS

26 10488179.DOC
27 DOJ docket number: SA2008306277

28 Attachment:

Exhibit A: Accusation No. 3245



Exhibit A:
Accusation No. 3245

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 GEOFFREY S. ALLEN, State Bar No. 193338
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 324-5341
6 Facsimile: (916) 327-8643
E-mail: Geoffrey.Allen@doj.ca.gov
7
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3245

12 **CHELSEA T. VANDERWIEL**
13 11430 Columbia Village Dr.
Sonora, California 95370

A C C U S A T I O N

14 Original Pharmacy Technician Registration No.
15 TCH 25777

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about May 13, 1998, the Board of Pharmacy (Board) issued
24 Original Pharmacy Technician Registration Number TCH 25777 (License) to Chelsea T.
25 Vanderwiel (Respondent). The License was in full force and effect at all times relevant to the
26 charges brought herein and will expire on June 30, 2009, unless renewed.

27 ///

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board, Department of Consumer
3 Affairs, under the authority of the following laws. All section references are to the Business and
4 Professions Code unless otherwise indicated.

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

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

7 (b) The board shall discipline the holder of any license issued by the
8 board, whose default has been entered or whose case has been heard by the board
and found guilty, by any of the 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
12 exceeding one year.

13 (4) Revoking his or her license.

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

16

17 (e) The proceedings under this article shall be conducted in accordance
18 with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
19 Government Code, and the board shall have all the powers granted therein. The
20 action shall be final, except that the propriety of the action is subject to review by
21 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

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

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

27

28 (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 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 (commencing with Section 801) of Title 21 of the
United States Code regulating controlled substances or of a violation of the

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

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

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

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

6. Code section 4022 provides, in pertinent part,

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

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

7. Section 4060 of the Code states:

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.

Nothing in this section authorizes a certified nurse-midwife, a nurse

1 practitioner, a physician assistant, or a naturopathic doctor, to order his or her
2 own stock of dangerous drugs and devices.

3 8. Health and Safety Code section 11350, subdivision (a), provides:

4 Except as otherwise provided in this division, every person who possesses
5 (2) any controlled substance classified in Schedule III, IV, or V which is a
6 narcotic drug, unless upon the written prescription of a physician, dentist,
7 podiatrist, or veterinarian licensed to practice in this state, shall be punished by
8 imprisonment in the state prison.

9 **COST RECOVERY**

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

14 **DRUGS**

15 10. "Norco 10" is a compound consisting of 10 mg. hydrocodone bitartrate
16 also known as dihydrocodeinone, a Schedule III narcotic controlled substance as designated by
17 Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet, and is a
18 dangerous drug within the meaning of Code section 4022, in that under federal law it requires a
19 prescription.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Corrupt Acts - Stealing Hydrocodone-containing Medications)

22 11. Respondent is subject to disciplinary action under Code section 4301,
23 subd. (f) in that Respondent conducted acts involving moral turpitude, dishonesty, fraud, deceit,
24 or corruption. The circumstances are as follows:

25 12. On or about August 10, 2007, to October 4, 2007, on multiple occasions,
26 all the exact dates which are only known to Respondent, Respondent fraudulently and illegally
27 stole approximately 1000 tablets of Norco 10 from Sierra Conservation Pharmacy, while on duty
28 as a registered pharmacy technician.

///

///

