

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

TISA MONIQUE ORDUNA
11910 Lucile Street
Culver City, CA 90230

Pharmacy Technician License No. TCH 47453

Respondent.

Case No. 3554

OAH No. 22010120950

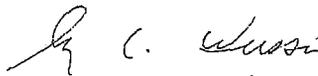
DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on January 11, 2012.

It is so ORDERED December 12, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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PROPOSED DECISION

This matter was heard by Erlinda G. Shrenger, Administrative Law Judge, Office of Administrative Hearings, State of California, on July 11, 2011, in Los Angeles, California.

Rene Judkiewicz, Deputy Attorney General, represented Complainant.

Respondent Tisa Monique Orduna was not present but was represented by her attorney, George Reyes.

Testimonial and documentary evidence was received, and argument was heard. The matter was submitted and the record was closed on July 11, 2011.

FACTUAL FINDINGS

1. On April 6, 2010, Virginia Herold (Complainant) filed the Accusation in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

2. On February 28, 2003, the Board issued pharmacy technician registration number TCH 47453 to Tisa Monique Orduna (Respondent). Said registration expired on August 31, 2010, and was cancelled on December 5, 2010. Jurisdiction continues to exist in this matter pursuant to Business and Professions Code section 118, subdivision (b).

Controlled Substances / Dangerous Drugs

3. (A) Alprazolam, which is known by the trade name Xanax, is a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug under Business and Professions Code section 4022. It is commonly used for anxiety.

7. On November 24, 2008, Respondent initiated and caused a prescription for Alprazolam for herself, purportedly authorized by Dr. Harvey Raskind, to be filled at the Costco pharmacy. Dr. Raskind testified credibly at the hearing. He did not authorize this prescription for Respondent. He retired from medical practice as of July 1, 2008, and did not write any prescriptions after that date.

8. On December 3, 2008, Respondent initiated and caused a prescription for Vicodin for herself, purportedly authorized by Dr. Natalya Sumina, to be filled at the Costco pharmacy. Dr. Sumina testified credibly at the hearing. Dr. Sumina did not authorize this prescription for Respondent. She met with Respondent only one time, in August 2008, and did not prescribe any medications for Respondent. Dr. Sumina testified that she was not asked to authorize a Vicodin prescription for Respondent but she would have authorized it if she had been asked.

9. Respondent engaged in fraudulent and deceitful conduct by initiating the above-described false and fraudulent prescriptions for herself and her mother, and causing them to be filled at the Costco pharmacy where she worked as a pharmacy technician.

Board's Inquiry

10. On October 8, 2009, the Board's inspector sent a letter to Respondent which stated, in part, that the Board was performing an investigation into several unauthorized prescriptions, including controlled substance prescriptions, filled for Respondent and her mother. The letter requested that Respondent provide answers to nine questions, including questions concerning the above-described unauthorized prescriptions. The letter requested a written response by October 14, 2009.

11. The Board did not receive any response from Respondent to the October 8, 2009 letter. By failing to respond to the Board's letter dated October 8, 2009, Respondent engaged in conduct that subverted or attempted to subvert the Board's investigation of this matter.

Mitigation / Rehabilitation

12. No evidence was presented on Respondent's behalf to establish mitigation or rehabilitation for her conduct.

Cost Recovery

13. The reasonable cost of the investigation and prosecution incurred by the Board in this case is \$10,618, consisting of \$4,105.50 of investigative costs and \$6,512.50 of prosecution costs.

3. Health and Safety Code section 11173, subdivision (a), states: "No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

4. Business and Professions Code section 4060 provides, in part, that "[n]o person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician". Similarly, section 4059, subdivision (a), provides, in part, that a person may not furnish any dangerous drug "except upon the prescription of a physician."

5. Cause exists to suspend or revoke Respondent's pharmacy technician registration, pursuant to Business and Professions Code section 4301, subdivision (f), for unprofessional conduct, in that Respondent committed acts involving moral turpitude, dishonesty, and fraud, based on the matters in Factual Findings 3-9.

6. Cause exists to suspend or revoke Respondent's pharmacy technician registration, pursuant to Business and Professions Code section 4301, subdivision (g), for unprofessional conduct, in that Respondent knowingly made documents that falsely represented the existence or nonexistence of a state of facts, based on the matters in Factual Findings 3-9.

7. Cause exists to suspend or revoke Respondent's pharmacy technician registration, pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), and Health and Safety Code section 11173, subdivision (a), for unprofessional conduct, in that Respondent obtained controlled substances by fraud, deceit, misrepresentation, subterfuge, or making false statements in prescriptions, based on the matters in Factual Findings 3-9.

8. Cause exists to suspend or revoke Respondent's pharmacy technician registration, pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), 4059, and 4060, for unprofessional conduct, in that Respondent possessed controlled substances and dangerous drugs without valid prescriptions, based on the matters in Factual Findings 3-9.

9. Cause exists to suspend or revoke Respondent's pharmacy technician registration, pursuant to Business and Professions Code section 4301, subdivision (p), for unprofessional conduct, in that that Respondent engaged in conduct that would warrant denial of a license, based on the matters in Factual Findings 3-9.

10. Cause exists to suspend or revoke Respondent's pharmacy technician registration, pursuant to Business and Professions Code section 4301, subdivision (q), for unprofessional conduct, in that Respondent engaged in conduct that subverts or attempts to subvert an investigation of the Board, based on the matters in Factual Findings 10-11.

18. The statements of Respondent's counsel are not evidence upon which any factual findings of mitigation or rehabilitation can be made. Evidence is defined as "testimony, writings, material objects, or other things presented to the senses that are offered to prove the existence or nonexistence of a fact." (Evid. Code, § 140.) Testimonial evidence must be given under an oath or affirmation in the form provided by law. (Evid. Code, § 710). Further, "the testimony of a witness concerning a particular matter is inadmissible unless he has personal knowledge of the matter." (Evid. Code, § 702, subd. (a).) Respondent's counsel did not make his statements under oath, and no showing was made that he had personal knowledge of the matters asserted in his statements.

19. In this case, the revocation of Respondent's technician registration is warranted in the interest of public protection. Respondent committed serious misconduct by causing false and fraudulent prescriptions to be filled at the pharmacy where she worked as a technician. Her conduct reflects poorly on her character for honesty and integrity. Filling prescriptions without a valid doctor's prescription, whether for herself or others, poses a serious potential risk of harm to the public and consumers.

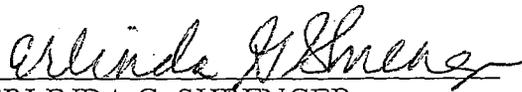
ORDER

Pharmacy technician registration number TCH.47453, issued to Respondent Tisa Monique Orduna, is revoked. Respondent shall relinquish her technician license to the Board within ten (10) days of the effective date of this decision. Respondent may not reapply or petition the Board for reinstatement of her revoked technician license for three (3) years from the effective date of this decision.

A condition of reinstatement shall be that Respondent is certified as defined in Business and Professions Code section 4202, subdivision (a)(4), and provides satisfactory proof of certification to the Board.

As a condition precedent to reinstatement of her revoked technician license, Respondent shall reimburse the Board for its costs of investigation and prosecution in the amount of \$10,618. Said amount shall be paid in full prior to the reapplication or reinstatement of her revoked technician license, unless otherwise ordered by the Board.

DATED: October 5, 2011


ERLINDA G. SHRENGER
Administrative Law Judge
Office of Administrative Hearings

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RENE JUDKIEWICZ
Deputy Attorney General
4 State Bar No. 141773
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2537
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Accusation Against:

Case No. 3554

11 **TISA MONIQUE ORDUNA**
12 **11910 Lucile Street**
Culver City, CA 90230
13 **Pharmacy Technician Registration No. TCH**
47453

A C C U S A T I O N

14 Respondent.
15

16
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 (Board), Department of Consumer Affairs.

21 2. On or about February 28, 2003, the Board issued Pharmacy Technician Registration
22 Number TCH 47453 to Tisa Monique Orduna (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on August 31, 2010, unless renewed.

25 JURISDICTION

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

1 e. On or about July 15, 2008, Respondent initiated an unauthorized prescription for
2 herself for Alprazolam under the name of Dr. Parks.

3 f. On or about August 14, 2008, Respondent initiated an unauthorized prescription for
4 herself for Alprazolam under the name of Dr. Parks.

5 g. On or about August 29, 2008, Respondent initiated an unauthorized prescription for
6 herself for Alprazolam under the name of Dr. Parks.

7 h. On or about October 15, 2008, Respondent initiated an unauthorized prescription for
8 herself for Alprazolam under the name of Dr. Parks.

9 i. On or about October 31, 2008, Respondent initiated an unauthorized prescription for
10 her mother for the controlled substance Vicodin 5/500 under the name of Dr. Galier.

11 j. On or about October 31, 2008, Respondent initiated an unauthorized prescription for
12 her mother for the controlled substance Phentermine under the name of Dr. Galier.

13 k. On or about November 24, 2008, Respondent initiated an unauthorized prescription
14 for herself for Alprazolam under the name of Dr. Parks.

15 l. On or about November 24, 2008, Respondent initiated an unauthorized prescription
16 for herself for Alprazolam under the name of Dr. Raskind.

17 m. On or about December 3, 2008, Respondent initiated an unauthorized prescription for
18 herself for Vicodin 7.5/750 under the name of Dr. Natalya Sumina, who succeeded retired Dr.
19 Harvey Raskind as Respondent's physician but who did not prescribe any new medications and
20 did not call in a prescription for Vicodin for Respondent.

21 n. On or about December 10, 2008, Respondent initiated an unauthorized prescription
22 for her mother for Vicodin 5/500 under the name of Dr. Galier.

23 SECOND CAUSE FOR DISCIPLINE

24 (Controlled Substances Acquisition by Fraud, Deceit, Misrepresentation, Subterfuge or
25 Concealment of Material Fact)

26 17. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
27 and (o), and Health and Safety Code section 11173, subdivision (a), in that Respondent attempted
28 and obtained controlled substances by fraud, deceit, misrepresentation, subterfuge or making false

1 statements in prescriptions. Complainant refers to and by this reference incorporates the
2 allegations set forth in paragraph 16, subparagraphs (d), (e), (f), (g), (h), (i), (j), (k), (l), (m) and
3 (n), above, as though set forth fully.

4 THIRD CAUSE FOR DISCIPLINE

5 (Possession of Controlled Substances and Dangerous Drugs Without a Valid Prescription)

6 18. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
7 (j) and (o), 4059 and 4060 in that Respondent was in possession of the controlled substances of
8 Alprazolam, Vicodin, Phentermine and Chlordiazepoxide, as well as the dangerous drugs of
9 Amoxicillin and Ocella, without a valid prescription for these controlled substances and
10 dangerous drugs. Complainant refers to and by this reference incorporates the allegations set
11 forth in paragraph 16, and subparagraphs (a) through (n), above, as though set forth fully.

12 FOURTH CAUSE FOR DISCIPLINE

13 (Actions Warranting Denial of License)

14 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (p)
15 in that Respondent engaged in actions that would warrant denial of a license. Complainant refers
16 to and by this reference incorporates the allegations set forth in paragraph 18, subparagraphs (a)
17 through (n) inclusive, above, as though set forth fully.

18 FIFTH CAUSE FOR DISCIPLINE

19 (Engaging in Conduct Attempting to Subvert Board Investigation)

20 20. Respondent is subject to disciplinary action under Code section 4301, subdivision (q)
21 in that Respondent did not respond to Board Inspector Valerie Sakamura's October 8, 2009 letter
22 to Respondent requesting Respondent to provide a statement in response to the following nine
23 questions:

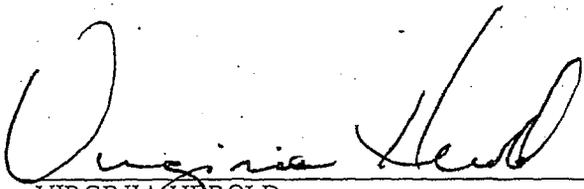
- 24 a. Why did Respondent have unauthorized prescriptions filled for herself and her mother?
- 25 b. Did anyone else help Respondent call in the prescriptions?
- 26 c. What was Respondent's relationship to a "Jennifer" employed at Dr. Parks' office?
- 27 d. Did Respondent know taking, filling and receiving unauthorized prescriptions violated
28 the law?

- 1 e. What were Respondent's job duties at the Costco pharmacy?
- 2 f. Did Respondent take the prescription drugs for self-use or for sale?
- 3 g. Did Respondent use any of the prescription drugs while on duty at the Costco
- 4 pharmacy?
- 5 h. Did Respondent quit her job or was she fired after the unauthorized prescription
- 6 Incidents?
- 7 i. Is Respondent currently employed, and is she still working in a pharmacy?

8 PRAYER

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

- 11 1. Revoking or suspending Pharmacy Technician Registration Number TCH 47453,
- 12 issued to Tisa Monique Orduna;
- 13 2. Ordering Tisa Monique Orduna to pay the Board of Pharmacy the reasonable costs of
- 14 the investigation and enforcement of this case, pursuant to Code section 125.3; and
- 15 3. Taking such other and further action as deemed necessary and proper.

16
17
18 DATED: 4/6/10 
19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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