



**California State Board of Pharmacy**

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RECEIVED BY CALIF  
BOARD OF PHARMACY

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
DEPARTMENT OF CONSUMER AFFAIRS  
GOVERNOR EDMUND G. BROWN JR.

2015 OCT 26 PM 3:12

**APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE**

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>JUAN CARLOS RAMOS</u>	Case No. <u>AC4408</u>
Address of Record: <u>PO BOX 1422</u> <u>SALINAS CA 93902</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC4408, I hereby request to surrender my pharmacy technician license, License No. 41963. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

[Signature]  
Applicant's Signature

10-16-15  
Date

[Signature]  
Executive Officer's Approval

10/27/15  
Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

**JUAN CARLOS RAMOS**  
755 Cordoba Street  
Soledad, CA 93960

Pharmacy Technician Registration No.  
TCH 41963

Respondent.

Case No. 4408

OAH No. 2013070512

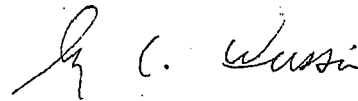
**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on December 6, 2013.

It is so ORDERED on November 6, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

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

In the Matter of the Accusation  
Against:

JUAN CARLOS RAMOS,

Pharmacy Technician Registration No.  
TCH 41963

Respondent.

Case No. 4408

OAH No. 2013070512

**PROPOSED DECISION**

Administrative Law Judge Karen Reichmann, State of California, Office of Administrative Hearings, heard this matter on August 28, 2013, in Oakland, California.

Complainant Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, was represented by Kim M. Settles, Deputy Attorney General.

Respondent Juan Carlos Ramos was present and represented himself.

This matter was submitted for decision on August 28, 2013.

**FACTUAL FINDINGS**

1. Complainant Virginia Herold made this accusation in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (board).
2. On April 26, 2002, the board issued pharmacy technician registration number TCH 41963 to respondent Juan Carlos Ramos. This registration was in full force and effect at all times relevant to this accusation, and will expire on September 30, 2013, unless renewed.
3. On August 19, 2011, respondent admitted to a CVS loss prevention investigator that he had stolen and consumed the following substances from the CVS Pharmacy where he was employed as a pharmacy technician:

- a. three tablets of Acetaminophen, an over-the-counter medication;
- b. two tablets of Aspirin, an over-the-counter medication;
- c. 30 tablets of Ibuprofen, an over-the-counter medication;
- d. one tablet of Lorazepam, a Schedule IV controlled substance;
- e. one tablet of Pyridium, a prescription medication;
- f. three tablets of Vicoprofen, a Schedule III controlled substance;
- g. 10 milliliters of Tussinoex, a Schedule III controlled substance; and
- h. 10 milliliters of Promethazine with Codeine, a Schedule V controlled substance.

The substances listed above in items d through h are all dangerous drugs within the meaning of Business and Professions Code section 4022.

4. Lisa Bryant, loss prevention director at CVS Pharmacy, was present and testified at the hearing. She investigated respondent after the pharmacy location where he worked showed shortages of some drugs. Respondent signed a written admission in which he admitted to stealing the drugs as well as other merchandise for a total loss to CVS of \$173.15. Respondent signed a promissory note in the amount of \$173.15 as restitution to CVS Pharmacy.

5. Hilda Nip, an investigator for the board, was assigned to investigate respondent after the board was notified that CVS Pharmacy had terminated him for theft of controlled substances. Nip interviewed respondent on March 6, 2012. Respondent initially denied any wrongdoing and stated that he had been harassed by CVS during three to four hours of questioning. Respondent later told Nip that he had been allowed to take the medications by pharmacists he had been working for over a period of ten years of employment. Respondent told Nip that he used the medications at the pharmacy to treat pain, cough, and headache. He denied being an addict. Nip testified that she did not find respondent to be credible when she interviewed him. She did not think it was plausible that multiple pharmacists violated the law by dispensing medications to respondent without a prescription.

6. Respondent expressed remorse and shame for his conduct, which he called inexcusable and out of character. He stated that he took the drugs during 2007, for his own use. He denied stealing any other medications and denied selling the drugs. He stated that at the time he took the medications, he was "careless and naïve." He was also going through difficult times in his personal life and stress at work. The pharmacists where he worked condoned him taking small doses of drugs for his own use. Nonetheless, he knew that it was wrong to take drugs from CVS Pharmacy and had already stopped long before he was caught. Respondent stated that he will not repeat this conduct, and he hopes the board will give him a second chance. If he is in pain or has a headache, he will purchase over-the-counter medications or go to the doctor for a prescription. Respondent knows that he failed and is reminded of his mistake every day. He has "paid a price ever since" because losing

his job at CVS Pharmacy resulted in a reduction in his income and the loss of health insurance and other benefits.

7. Respondent worked for Longs Drugs, which was taken over by CVS Pharmacy, from 2001 until he was terminated in 2011. Respondent currently works as a pharmacy technician at Soledad Correctional Facility. He also works approximately four hours a week at Natividad Medical Center in Salinas as a per diem pharmacy technician. He wants to keep his license in order to support his family.

8. Respondent is recently remarried. He has 50% custody of his three sons from his first marriage.

9. Respondent's testimony in this proceeding was forthright and credible.

10. There have been no other disciplinary proceedings against respondent's pharmacy technician registration.

11. Respondent's father, Miguel R. Ramos, was present and testified at the hearing. Miguel Ramos recently retired after working as a correctional officer for 30 years at the Soledad Correctional Facility. Miguel Ramos testified that respondent had gone through difficulties in the past. Respondent had a bad first marriage and divorce, and suffered from headaches. Miguel Ramos believes that things are better for respondent now and that he has put his problems behind him. He has less stress in his life. Miguel Ramos does not believe that his son has addiction problems. Until he retired, Miguel Ramos would see respondent at the Soledad Correctional Facility where they both worked. Now that he is retired, he sees him once or twice a month and talks to him on the phone daily.

12. In a letter dated July 11, 2013, Jason Warren, Director of Pharmacy at Natividad Medical Center, writes that he has worked with respondent since June 2010, as a coworker and as a supervisor. Respondent has never been disciplined. He gets along with his coworkers and is straightforward and forthright.

13. In a letter dated August 22, 2013, Primo Pang, former assistant manager at CVS Pharmacy, writes that respondent was a great employee. Pang writes that respondent violated company policy, but was a victim of "bad and loose management" in the pharmacy. Pang writes that there was a pharmacist at the time who allowed employees to take "things" for their own use. Pang adds that he has spoken to respondent about the events, and that he is confident that the events will not happen again.

In rebuttal, loss prevention director Lisa Bryant testified that she was told by her manager that Pang was terminated by CVS Pharmacy for payroll fraud.

14. In a letter dated July 9, 2013, respondent's brother, Jose M. Ramos, writes that he has been a sergeant in the United States Marine Corps for eight years and is also a youth sports coach and community volunteer. Jose Ramos writes that respondent holds a high

regard for integrity and discipline and has always been honest and hardworking. Jose Ramos writes that respondent's violation of his values was out of character, and that respondent has expressed disappointment in himself. Jose Ramos believes that respondent has learned from his mistakes.

15. In a letter dated July 9, 2013, respondent's mother, Alma R. Ramos, writes that she works as a payroll supervisor at a private company. Alma Ramos writes that respondent was raised with strong family values and has always displayed a good work ethic. The family was saddened to learn that respondent had been fired from CVS for stealing. Alma Ramos writes that respondent knows what he did was wrong and he will not repeat the conduct because he would not jeopardize his family's future.

16. In connection with the investigation of this accusation, the board has incurred costs of \$2,703. In connection with the prosecution of this accusation, the Department of Justice has billed the Board \$3,867.50 for legal services incurred between September 27, 2012 and August 13, 2013. These charges are supported by declarations that comply with the requirements of California Code of Regulations, title 1, section 1042. The total amount of \$6,570.50 for investigation and prosecution costs is deemed to be reasonable.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 4301, subdivision (f), provides that the board may impose discipline on a pharmacy technician license if the licensee has committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Respondent's admitted theft of controlled substances constitutes an act of dishonesty, fraud, or deceit. Therefore, cause exists to suspend or revoke respondent's license in light of the matters set forth in Finding 3.<sup>1</sup>

2. Business and Professions Code section 4301, subdivision (h), provides that the board may impose discipline on a pharmacy technician license if the licensee administers controlled substances to himself. Respondent admits self-administering controlled substances which he stole from CVS Pharmacy. Therefore, cause exists to suspend or revoke respondent's license in light of the matters set forth in Finding 3.

3. Business and Professions Code section 4301, subdivisions (j) and (o), provides that the board may impose discipline on a pharmacy technician license if the licensee violates statutes regulating controlled substances or violates laws regulating pharmacy. Respondent's theft of prescription medications for his own use violated laws governing controlled

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<sup>1</sup> The accusation alleges two causes for discipline under Business and Professions Code section 4301, subdivision (f), both premised on respondent's theft. It was not established that respondent's conduct constituted two separate causes for discipline under Business and Professions Code section 4301, subdivision (f).

substances, including Business and Professions Code section 4060. Therefore, cause exists to suspend or revoke respondent's license in light of the matters set forth in Finding 3.

4. The board has established disciplinary guidelines for evaluating the appropriate penalty to impose on a licensee who is subject to discipline. The factors to be considered include actual or potential harm to pharmacy consumers or the public, prior disciplinary record, number of current violations, nature and severity of the acts under consideration, time that has passed since the acts, whether the conduct demonstrated incompetence, financial benefit from the misconduct, mitigating and aggravating evidence, and evidence of rehabilitation.

Respondent's conduct of stealing prescription and over-the-counter medications from CVS Pharmacy is very serious and raises concerns about his fitness for licensure as a pharmacy technician. Respondent took the drugs for his own use and the evidence does not suggest that respondent sold drugs. Nor does the evidence suggest that respondent is an addict or substance abuser. Respondent expressed remorse for his actions. Respondent has maintained steady employment and has made changes in his personal life. This is the first disciplinary action against respondent's license.

Respondent has presented sufficient evidence of rehabilitation to warrant retaining his pharmacy technician registration, on a probationary basis. Counsel for complainant acknowledged at the hearing that probation was the appropriate discipline in this case. The disciplinary guidelines recommend a minimum five-year probation in cases involving self-administration of drugs. Suspension in this matter (beyond the period for establishing certification pursuant to the first condition of probation) is unwarranted and would be unnecessarily punitive. A five-year period of probation, with all standard conditions, will provide adequate protection to the public.

5. Business and Professions Code section 125.3 authorizes the Board to recover its reasonable costs of investigation and enforcement. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court sets forth standards by which a licensing board must exercise its discretion to reduce or eliminate costs awards to ensure that licensees with potentially meritorious claims are not deterred from exercising their right to an administrative hearing. Those standards include whether the licensee has been successful at hearing in getting the charges dismissed or reduced, the licensee's good faith belief in the merits of his position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. Considering these factors, there is no basis to reduce the costs in this matter. The board will arrange a payment plan for respondent.

## ORDER

Pharmacy technician registration number TCH 41963, issued to respondent Juan Carlos Ramos, is revoked; however the revocation is stayed and respondent is placed on probation for five years upon the following terms and conditions:

1. Certification Prior to Resuming Work

Respondent shall be automatically suspended from working as a pharmacy technician until he is certified as defined by Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Respondent shall not resume working as a pharmacy technician until notified by the board. Failure to achieve certification within one (1) year shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises by the board in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations. Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- a. an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws.
- b. a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment.
- c. a conviction of any crime.



d. discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

3. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports, in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

4. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear at two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

5. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate shall be considered a violation of probation.

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 4408 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that

the listed individual(s) has/have read the decision in case number 4408 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in case number 4408 in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number 4408 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement or criterion for employment, whether the respondent is considered an employee, independent contractor or volunteer.

7. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$6,570.50. Respondent shall make said payments pursuant to a payment plan to be established by the board. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to reimburse the board its costs of investigation and prosecution.

8. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

9. Status of License

Respondent shall, at all times while on probation, maintain an active, current pharmacy technician license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's pharmacy technician license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

10. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her pharmacy technician license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his or her pharmacy technician license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

11. Notification of a Change in Name, Residence Address, Mailing Address or Employment

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the

board in writing within ten (10) days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

12. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a specific number of hours per calendar month to be determined by the board or its designee. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician in California for the specific minimum number of hours per calendar month determined by the board, respondent must notify the board in writing within ten (10) days of cessation of work and must further notify the board in writing within ten (10) days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

"Cessation of work" means calendar month during which respondent is not working as a pharmacy technician, as defined in Business and Professions Code section 4115 for at least the minimum hours determined by the board. "Resumption of work" means any calendar month during which respondent is working as a pharmacy technician as defined by Business and Professions Code section 4115 for at least the minimum number of hours determined by the board.

13. Violation of Probation

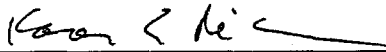
If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

14. Completion of Probation

Upon written notice by the board indicating successful completion of probation, respondent's pharmacy technician license will be fully restored.

DATED: 9/18/13

  
\_\_\_\_\_  
KAREN REICHMANN  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
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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 **JUAN CARLOS RAMOS**  
233 Auburn Street  
13 Salinas, CA 93901  
14 **Pharmacy Technician Registration No.**  
15 **41963**  
16 Respondent.

Case No. 4408

**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 April 26, 2002, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number 41963 to Juan Carlos Ramos (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought in this  
24 Accusation and will expire on September 30, 2013, unless renewed.

25 **JURISDICTION**

- 26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

1 4. Section 118, subdivision (b), of the Code provides that the expiration of a license  
2 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
3 within which the license may be renewed, restored, reissued or reinstated.

4 STATUTORY PROVISIONS

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

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

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

8 . . . .

9 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
11 whether the act is a felony or misdemeanor or not.

12 . . . .

13 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
14 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
15 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
16 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
17 practice authorized by the license.

18 . . . .

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

21 . . . .

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

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

27 "No person shall possess any controlled substance, except that furnished to a person upon  
28 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor

1 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
2 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
3 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
4 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
5 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
6 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
7 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
8 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
9 labeled with the name and address of the supplier or producer.”

#### 10 COST RECOVERY

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

#### 15 DRUGS

16 9. “**Vicoprofen**” (generic name Hydrocodone/Ibuprofen) is used short-term to relieve  
17 severe pain. It is a Schedule III controlled substance, as designated by Health and Safety Code  
18 section 11056, subdivision (e)(4), and a dangerous drug pursuant to Business and Professions  
19 Code section 4022.

20 10. “**Tussinoex**” (generic name Hydrocodone/Chlorpheniramine) is used to treat runny  
21 nose, sneezing, and cough caused by a common cold. It is a Schedule III controlled substance, as  
22 designated by Health and Safety Code section 11056, subdivision (e)(4), and a dangerous drug  
23 pursuant to Business and Professions Code section 4022.

24 11. “**Ativan**” (generic name Lorazepam) is used for short-term treatment of insomnia and  
25 anxiety. It is a Schedule IV controlled substance, as designated by Health and Safety Code  
26 section 11057, subdivision (d)(16), and a dangerous drug pursuant to Business and Professions  
27 Code section 4022.

28



1 12. "Phenergan/Codeine" (generic name Promethazine/Codeine) is a cough suppressant.  
2 It is a Schedule V controlled substance, as designated by Health and Safety Code section 11058,  
3 subdivision (c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.

4 13. "Pyridium" (generic name Phenazopyridine) is used to relieve urinary tract pain,  
5 burning, and urgency. It is a dangerous drug pursuant to Business and Professions Code section  
6 4022 in that it can be lawfully dispensed only by prescription.

7 **FIRST CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct: Theft of Controlled Substances)**

9 14. Respondent has subjected his license to disciplinary action under Code section 4301,  
10 subdivision (f), in that while working as a pharmacy technician at CVS Pharmacy #9186 in  
11 Salinas, California, Respondent admitted to stealing three tablets of Acetaminophen, two tablets  
12 of Aspirin, 30 tablets of Ibuprofen, one tablet of Lorazepam, one tablet of Pyridium, three tablets  
13 of Vicoprofen, 10 ml of Tussinoex, and 10 ml of Promethazine with codeine, for his own personal  
14 use.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct: Self-Administration of Controlled Substances)**

17 15. Respondent has subjected his license to disciplinary action under Code section 4301,  
18 subdivision (h), in that he administered controlled substances and/or dangerous drugs to himself,  
19 as set forth in paragraph 14, above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct: Commission of Act Involving Dishonesty)**

22 16. Respondent has subjected his license to disciplinary action under section 4301,  
23 subdivision (f) in that he engaged in unprofessional conduct by committing acts of dishonesty,  
24 namely theft. The circumstances are set forth in paragraph 14, above.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct: Violation of State Statutes Regulating Controlled Substances and**  
27 **Dangerous Drugs)**

28

1 17. Respondent has subjected his license to disciplinary action under section 4301,  
2 subdivisions (j) and (o) in that he engaged in unprofessional conduct by violating statutes of this  
3 state regulating controlled substances and dangerous drugs, namely Code section 4059,  
4 subdivision (a) and Health and Safety Code section 11173, subdivision (a).

5 **PRAYER**

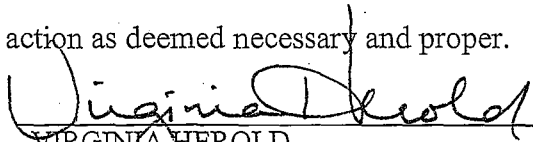
6 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
7 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

8 1. Revoking or suspending Pharmacy Technician Registration Number 41963, issued to  
9 Juan Carlos Ramos

10 2. Ordering Juan Carlos Ramos to pay the Board of Pharmacy the reasonable costs of  
11 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
12 125.3;

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

14 DATED: 1/18/13

  
15 VIRGINIA HEROLD  
16 Executive Officer  
17 Board of Pharmacy  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant

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