

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

In the Matter of the Accusation Against:
ERIC SORIA
16442 Virginia Ave.
Paramount, CA 90723
Pharmacy Technician Registration No. TCH
102812
Respondent.

Case No. 4868

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about August 31; 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4868 against Eric Soria (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about September 13, 2010, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 102812 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4868 and will expire on September 30, 2014, unless renewed.

3. On or about September 9; 2015, Respondent was served by Certified and First Class

1 Mail copies of the Accusation No. 4868, Statement to Respondent, Notice of Defense, Request
2 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
3 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
4 section 4100, is required to be reported and maintained with the Board. Respondent's address of
5 record was and is: 16442 Virginia Ave., Paramount, CA 90723.

6 4. Service of the Accusation was effective as a matter of law under the provisions of
7 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
8 124.

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

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

15 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
16 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.
17 4868.

18 7. California Government Code section 11520 states, in pertinent part:

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

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
26 taking official notice of all the investigatory reports, exhibits and statements contained therein on
27 file at the Board's offices regarding the allegations contained in Accusation No. 4868, finds that
28 the charges and allegations in Accusation No. 4868, are separately and severally, found to be true
and correct by clear and convincing evidence.

9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation

1 and Enforcement is \$6,747.50 as of December 17, 2015.

2 **DETERMINATION OF ISSUES**

3 1. Based on the foregoing findings of fact, Respondent Eric Soria has subjected his
4 Pharmacy Technician Registration No. TCH 102812 to discipline.

5 2. The agency has jurisdiction to adjudicate this case by default.

6 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
7 Registration based upon the following violations alleged in the Accusation which are supported
8 by the evidence contained in the Default Decision Evidence Packet in this case.

9 a. Respondent is subject to disciplinary action under Code section 4301, subdivision (j)
10 for unprofessional conduct in that Respondent violated state statutes regulating controlled
11 substances and dangerous drugs when he: (i) unlawfully furnished dangerous drugs in violation of
12 Code section 4059; (ii) unlawfully furnished and gave away controlled substances in violation of
13 Health and Safety Code section 11352; (iii) unlawfully possessed controlled substances in
14 violation of Code section 4060; (iv) unlawfully possessed narcotic controlled substances in
15 violation of Health and Safety Code section 11350; and (v) obtained controlled substances by
16 fraud, deceit, misrepresentation and subterfuge or by concealment of a material fact in violation
17 of Health and Safety Code section 11173.

18 b. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
19 for unprofessional conduct in that Respondent committed acts involving moral turpitude,
20 dishonesty, fraud, deceit, and corruption.

21 c. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
22 for unprofessional conduct in that he violated and aided and abetted another in violating
23 provisions of the Pharmacy Act and state laws and regulations governing pharmacy.

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 102812, heretofore issued to Respondent Eric Soria, is revoked.

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

This Decision shall become effective on February 19, 2016.

It is so ORDERED January 20, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

61773622.DOC
DOJ Matter ID:LA2013509895

Attachment:
Exhibit A: Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 MATTHEW A. KING
Deputy Attorney General
4 State Bar No. 265691
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
matthew.king@doj.ca.gov
6 (213) 897-7446

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4868

12 **ERIC SORIA**
16442 Virginia Ave.
13 Paramount, CA 90723

ACCUSATION
(Gov. Code, § 11503.)

14 **Pharmacy Technician Registration**
15 **No. TCH 102812**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On September 13, 2010, the Board issued Pharmacy Technician Registration Number
23 TCH 102812 to Respondent Eric Soria. The registration was in full force and effect at all times
24 relevant to the charges brought herein. The registration expired on September 30, 2014 and is
25 now cancelled.

26 ///

27 ///

28 ///

1 JURISDICTION

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. Code section 4300 provides that every license issued by the Board may be revoked or
5 suspended and that proceedings to discipline a license are to be conducted according to the
6 Administrative Procedure Act (Gov. Code, §§ 11370, *et seq.*).

7 5. Code section 4300.1 provides that the "expiration, cancellation, forfeiture, or
8 suspension of a board-issued license by operation of law or by order or decision of the board or a
9 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
10 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
11 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
12 suspending or revoking the license."

13 STATUTES

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

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

18 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
19 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.

20 ...

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

23 ...

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

27 (p) Actions or conduct that would have warranted denial of a license.
28

DRUG STATUTES

1
2 7. Section 4059 states, in pertinent part:

3 (a) A person may not furnish any dangerous drug, except upon the prescription of
4 a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
5 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
6 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
7 naturopathic doctor pursuant to Section 3640.7.

8 8. Section 4060 of the Code states:

9 No person shall possess any controlled substance, except that furnished to a
10 person upon the prescription of a physician, dentist, podiatrist, optometrist,
11 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
12 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
13 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section
14 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to
15 either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of
16 paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the
17 possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
18 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor,
19 certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in
20 containers correctly labeled with the name and address of the supplier or producer.

21 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
22 a physician assistant, or a naturopathic doctor, to order his or her own stock of
23 dangerous drugs and devices.

24 9. Health and Safety Code section 11173 states, in pertinent part:

25 (a) No person shall obtain or attempt to obtain controlled substances, or procure
26 or attempt to procure the administration of or prescription for controlled substances, (1)
27 by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a
28 material fact.

1 10. Health and Safety Code section 11350 states, in pertinent part:

2 (a) Except as otherwise provided in this division, every person who possesses
3 (1) any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of
4 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
5 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
6 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance
7 classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written
8 prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in
9 this state, shall be punished by imprisonment in a county jail for not more than one
10 year, except that such person shall instead be punished pursuant to subdivision (h)
11 of Section 1170 of the Penal Code if that person has one or more prior convictions for an
12 offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e)
13 of Section 667 of the Penal Code or for an offense requiring registration pursuant to
14 subdivision (c) of Section 290 of the Penal Code.

1 11. Health and Safety Code section 11352 states, in pertinent part:

2 (a) Except as otherwise provided in this division, every person who transports,
3 imports into this state, sells, furnishes, administers, or gives away, or offers to
4 transport, import into this state, sell, furnish, administer, or give away, or attempts to
5 import into this state or transport (1) any controlled substance specified in subdivision
6 (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054, specified in
7 paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in
8 subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
9 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a
10 narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or
11 veterinarian licensed to practice in this state, shall be punished by imprisonment
12 pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five
13 years.

14 (b) Notwithstanding the penalty provisions of subdivision (a), any person who
15 transports any controlled substances specified in subdivision (a) within this state from
16 one county to another noncontiguous county shall be punished by imprisonment
17 pursuant to subdivision (h) of Section 1170 of the Penal Code for three, six, or nine
18 years.

19 (c) For purposes of this section, 'transports' means to transport for sale.

20 (d) This section does not preclude or limit the prosecution of an individual for
21 aiding and abetting the commission of, or conspiring to commit, or acting as an
22 accessory to, any act prohibited by this section.

23 COST RECOVERY

24 12. Code section 125.3 provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation of the licensing
26 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
27 case.

28 DRUG CLASSIFICATIONS

13. Soma is a brand name for carisoprodol. The drug acts as a muscle relaxer and is
indicated for painful musculoskeletal conditions. Soma is considered a non-narcotic dangerous
drug. (Bus. & Prof. Code, § 4022.)

14. Promethazine with codeine is used to treat allergy symptoms and to prevent motion
sickness, nausea and vomiting. It may be used as a sedative or sleep aid. Promethazine with
codeine is a considered a dangerous drug and a narcotic drug. It is classified as a Schedule V
controlled substance. (Bus. & Prof. Code, § 4022; Health & Saf. Code, § 11058, subd. (c)(1).)

1 15. Vicodin is a brand name for acetaminophen and hydrocodone. The drug operates as a
2 pain reliever and is indicated for moderate to severe pain. Vicodin is considered a dangerous drug
3 and a narcotic drug. It is classified as a Schedule III controlled substance. (Bus. & Prof. Code, §
4 4022; Health & Saf. Code, § 11056, subd. (e)(7).)

5 **STATEMENT OF FACTS**

6 16. From approximately February 2010 to September 20, 2011, CVS Pharmacy employed
7 Respondent as a Pharmacy Technician at one of its stores in Lynwood.

8 17. On or about September 16, 2010, police served a search warrant on Respondent's
9 home in Paramount. In a converted garage Respondent used as a bedroom, police found a bottle
10 of 13 Vicodin pills and another bottle containing 16 pills of acetaminophen and codeine. The
11 bottle of Vicodin carried a label that indicated the prescription was not Respondent's. The other
12 bottle's label was peeled away so that the patient's name was not visible. A Los Angeles County
13 Sheriff's Department deputy asked Respondent if the two prescription bottles belonged to him.
14 Respondent said, "yeah, they are mine." He admitted that he did not have a prescription for either
15 drug.

16 18. On or about May 4, 2011, Respondent was driving his car in Paramount when he was
17 stopped for having modified lights and tinted windows. During the enforcement stop, police
18 found a bottle of 24 Soma pills in the glove box. Respondent did not have a prescription for
19 Soma.

20 19. On or about September 4, 2011, Respondent stole a bottle of promethazine with
21 codeine from the CVS Pharmacy where he worked. He then passed the promethazine with
22 codeine through the drive-through window to another CVS employee. The employee did not have
23 a prescription for the substance and did not pay for it. Respondent knew that the drug's recipient
24 did not have a prescription for the drug.

25 20. Between February 2010 and September 20, 2011, Respondent conspired with
26 pharmacy technician Juan Luis Alarcón (TCH 82087) and another coworker to divert dangerous
27 drugs and controlled substances from CVS Pharmacy in Lynwood. Respondent diverted
28 dangerous drugs and controlled substances approximately seven times during the life of the

1 conspiracy. The stolen drugs included promethazine with codeine, about 60 tablets of Soma 350
2 mg and about 60 tablets of Vloodin 5/500mg. The drugs were worth \$993.57.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Violation of State Drug Laws)**

5 21. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
6 for unprofessional conduct, in that Respondent violated state statutes regulating controlled
7 substances and dangerous drugs, as follows:

8 a. Respondent unlawfully furnished dangerous drugs in violation of Code section 4059,
9 Complainant realleges paragraphs 13-20.

10 b. Respondent unlawfully furnished and gave away controlled substances in violation of
11 Health and Safety Code section 11352. Complainant realleges paragraphs 13-20.

12 c. Respondent unlawfully possessed controlled substances in violation of Code section
13 4060. Complainant realleges paragraphs 13-20.

14 d. Respondent unlawfully possessed narcotic controlled substances in violation of
15 Health and Safety Code section 11350. Complainant realleges paragraphs 13-20.

16 e. Respondent obtained controlled substances by fraud, deceit, misrepresentation and
17 subterfuge or by concealment of a material fact in violation of Health and Safety Code section
18 11173. Complainant realleges paragraphs 13-20.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Dishonesty and Fraud)**

21 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
22 for unprofessional conduct in that Respondent committed acts involving moral turpitude,
23 dishonesty, fraud, deceit and corruption. Complainant realleges paragraphs 13-21.

24 ///
25 ///
26 ///
27 ///
28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Violate Pharmacy Act)

3 23. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
4 for unprofessional conduct in that he violated and aided and abetted another in violating
5 provisions of the Pharmacy Act and state laws and regulations governing pharmacy. Complainant
6 realleges paragraphs 13-22.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Conduct Warranting Denial)

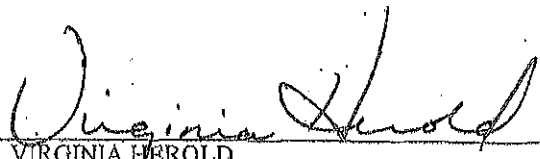
9 24. Respondent is subject to disciplinary action under Code section 4301, subdivision (p),
10 for unprofessional conduct in that Respondent committed acts that would have warranted denial
11 of a license. Complainant realleges paragraphs 13-23.

12 PRAYER

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

- 15 1. Revoking or suspending Pharmacy Technician Registration No. TCH 102812, issued
16 to Eric Sorla;
- 17 2. Ordering Eric Sorla to pay the Board the reasonable costs of the investigation and
18 enforcement of this case, pursuant to section 125.3; and,
- 19 3. Taking such other and further action as deemed necessary and proper.
- 20
21
22

23 DATED: 8/31/15

24 
25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

LA2013509895