

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

In the Matter of the Accusation Against:

RUBEN GARCIA

**4643 W. Vasser
Fresno, CA 93722**

**Pharmacy Technician Registration
No. TCH 136389**

Respondent.

Case No. 5609

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on August 15, 2016.

It is so ORDERED on July 15, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

11 In the Matter of the Accusation Against:

Case No. 5609

12 **RUBEN GARCIA**

13
14 **4643 W. Vasser**
Fresno, CA 93722

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Pharmacy Technician Registration**
16 **No. TCH 136389**

17 Respondent.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Kamala
24 D. Harris, Attorney General of the State of California, by Stanton W. Lee, Deputy Attorney
25 General.

26 2. Ruben Garcia (Respondent) is representing himself in this proceeding and has chosen
27 not to exercise his right to be represented by counsel.

28 ///

1 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
2 as of the effective date of the Board's Decision and Order.

3 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
4 issued, his wall certificate on or before the effective date of the Decision and Order.

5 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
6 the Board shall treat it as a new application for licensure. Respondent must comply with all the
7 laws, regulations and procedures for licensure in effect at the time the application or petition is
8 filed, and all of the charges and allegations contained in Accusation No. 5609 shall be deemed to
9 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
10 the application or petition.

11 5. Respondent shall not re-apply for licensure within the next three years of the effective
12 date of the decision and order adopting Respondent's Stipulated Surrender of License and Order.

13 6. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$6,041.00 prior to issuance of a new or reinstated license.

15 7. If Respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in Accusation, No. 5609 shall be deemed
18 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
19 other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE


I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 06-10-2016 
RUBEN GARCIA
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 6/14/16

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

STANTON W. LEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5609

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11 In the Matter of the Accusation Against:

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12 **RUBEN GARCIA**

13 **4643 W. Vasser**
14 **Fresno, CA 93722**

15 **Pharmacy Technician Registration No. TCH**
16 **136389**

ACCUSATION

17 Respondent.

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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about April 3, 2014, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 136389 to Ruben Garcia (Respondent). The Pharmacy Technician
25 Registration expired on June 30, 2015, and has not been renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
28 Consumer Affairs, under the authority of the following laws:

CALIFORNIA BUSINESS AND PROFESSIONS CODE

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4. Section 4300 states in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

5. Section 4300.1 states:

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

6. Section 4301 states in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct. . . Unprofessional conduct shall include, but is not limited to, any of the following:

(a) Gross immorality.

(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.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug . . . to the extent or in a manner as to be dangerous or injurious to oneself . . .

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

1 (l) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee . . .

3
4 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
5 abetting the violation of or conspiring to violate any provision or term of this
6 chapter or of the applicable federal and state laws and regulations governing
7 pharmacy, including regulations established by the board or by any other state or
8 federal regulatory agency

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

10 7. Section 4059(a) states that, "A person may not furnish any dangerous drug, except
11 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
12 doctor pursuant to Section 3640.7."

13 8. Section 4060 states, in pertinent part:

14 A person shall not possess any controlled substance, except that furnished to a
15 person upon the prescription of a physician, dentist, podiatrist, optometrist,
16 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
17 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
18 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
19 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
20 pursuant to Section 4052.1, 4052.2, or 4052.6 . . .

21 9. Section 4022 states:

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

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

26 (b) Any device that bears the statement: "Caution: federal law restricts this
27 device to sale by or on the order of a _____," "Rx only," or words of similar import,
28 the blank to be filled in with the designation of the practitioner licensed to use or
order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006.

HEALTH AND SAFETY CODE

10. Section 11007 states:

'Controlled substance,' unless otherwise specified, means a drug;
substance, or immediate precursor which is listed in any schedule in Section 11054,
11055, 11056, 11057, or 11058.

1 18. On March 18, 2015, Target Store T-314 forwarded DEA Form 106 to the Board.
2 DEA Form 106 identified the controlled substances stolen by Respondent. The drugs stolen by
3 Respondent included:

4 NDC NUMBER	BRAND NAME	TRADE NAME	DOSAGE	QUANTITY
5 00228287911	Roxicodone	Oxycodone HCL	30mg	150
6 00406324901	Dilaudid	Hydromorphone	8mg	120
7 00406833001	MS Contin	Morphine Sulfate ER	30mg	60
8 00603388728	Norco	Hydrocodone- APAP	10mg-325mg	952
9 00603389021	Norco	Hydrocodone- APAP	5mg-325mg	275
10 00603389121	Norco	Hydrocodone- APAP	7.5mg-325mg	378
11 64376064801	Vicodin	Hydrocodone- APAP	5mg-300mg	16
12 64720023710	Ritalin	Methylphenidate	5mg	30

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14 19. On or about February 9, 2015, Executive Team Leader of Assets Protection for
15 Target Store T-314, F.B. investigated Respondent's at-work conduct after F.B. witnessed
16 Respondent stealing store merchandise by taking items without paying. F.B. interviewed
17 Respondent who admitted to diverting and stealing medication as well as general merchandise.
18 Respondent confessed to diverting and stealing amoxicillin, Tamiflu, and oxycodone for his
19 family and girlfriend. Respondent admitted to stealing the drug Norco, when it was designated as
20 "Return to Stock" and that he had stolen an estimated 120 Norco pills. Respondent confessed to
21 F.B. that he began using oxycodone himself and became addicted.

22 20. On or about February 9, 2015, Target Loss Prevention informed Pharmacist in Charge
23 (PIC) A.Y. of the pharmacy in Target Store T-314 that Respondent diverted and stole medications
24 from the pharmacy including methylphenidate, oxycodone, hydromorphone, and morphine
25 sulfate. PIC A.Y. confirmed that the vendor invoice records, dispensing history, and store
26 inventory were consistent with Respondent diverting and stealing hydrocodone products.

27 21. On February 9, 2015, Respondent completed an admission statement wherein he
28 admitted to diverting and stealing controlled substances from the pharmacy at Target Store T-314.

1 hydromorphone, morphine sulfate, hydrocodone, and methylphenidate to himself and others who
2 did not possess a valid prescription for those drugs as set forth in paragraphs 17-23.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Conviction of a Crime)**

5 27. Respondent is subject to disciplinary action under section 4301(l) of the Business and
6 Professions Code in that on May 11, 2015, Respondent was convicted of petty theft based on his
7 plea of no contest, as set forth in paragraphs 17-23.

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 136389,
12 issued to Ruben Garcia.;
- 13 2. Ordering Ruben Garcia to pay the Board of Pharmacy the reasonable costs of the
14 investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.
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19

20 DATED: 5/12/16

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

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