

1 EDMUND G. BROWN, JR., Attorney General
of the State of California
2 ARTHUR TAGGART,
Supervising Deputy Attorney General
3 STERLING A. SMITH, State Bar No. 83287
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0378
Facsimile: (916) 327-8643

7 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. 3296

12 **DONNA J. WOODS-MUNOZ**
2511 Winter Street
13 Kingsburg, CA 93631

ACCUSATION

14 Pharmacy License RPh 50357

15 Respondents.

16
17 Complainant alleges:

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

21 **LICENSE HISTORY**

22 2. On September 8, 1998, the Board issued Pharmacist License RPH No.
23 50357 to Respondent Donna J. Woods-Munoz to practice pharmacy in California. Respondent's
24 pharmacy license was in full force and effect at all times relevant to the charges brought herein
25 and will expire on October 31, 2009, unless renewed.

26 **STATUTORY PROVISIONS**

27 3. Under Business and Professions Code section 4300, the Board may

28 ///

1 discipline any license, for any reason provided in the Pharmacy Law, (i.e., Business and
2 Professions Code sections 4000 *et. seq.*)

3 4. Business and Professions Code section 4301 states, in pertinent part:

4 **§ 4301. Unprofessional conduct; licenses procured through
5 misrepresentation, fraud, or mistake**

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

10 ...

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

17

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

19

20 5. Business and Professions Code section 118 (b), states:

21 "The suspension, expiration, or forfeiture by operation of law of a license
22 issued by a board in the department, or its suspension, forfeiture, or
23 cancellation by order of the board or by order of a court of law, or its
24 surrender without the written consent of the board, shall not, during any
25 period in which it may be renewed, restored, reissued, or reinstated, deprive
26 the board of its authority to institute or continue a disciplinary proceeding
27 against the licensee upon any ground provided by law or to enter an order
28 suspending or revoking the license or otherwise taking disciplinary action
against the licensee on any such ground."

6. Business and Professions Code section 125.3 states, in pertinent part, that
the Board may request the Administrative Law Judge to direct a licensee found to have
committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable
costs of the investigation and enforcement of the case.

CONTROLLED SUBSTANCES/DANGEROUS DRUGS AT ISSUE

7. "Temazepam" is a dangerous drug, and a Schedule IV controlled substance
as designated by Health & Safety Code section 11057.

1 (b) Mr. Zwanck requested that Respondent confirm that the vitamin he was
2 selling to the customer was the correct medication. Respondent replied that she was mistaken, a
3 different vitamin was prescribed, and asked Mr. Zwanck to provide and sell the correct vitamin to
4 the customer.

5 (c) Mr. Zwanck obtained the vitamin identified by Respondent, and asked
6 Respondent if she was sure that it was the right vitamin, to which Respondent replied "yes". Mr.
7 Zwanck then asked Respondent if she was absolutely sure that he had the correct vitamin, to
8 which Respondent replied "Yes, I'm sure". Mr. Zwanck then exchanged the vitamin he had already
9 sold to the customer for the vitamin that Respondent identified as the correct vitamin.

10 (d) Two minutes after the customer left Walgreens Drug store, a Walgreen's
11 pharmacy technician notified Mr. Zwanck that Respondent made a mistake and the vitamin sold
12 to the customer was not the vitamin prescribed for the customer. Mr. Zwanck ran out of the store
13 and waved the customer down in the street. The customer returned and second exchange of
14 vitamins was made. As Mr. Zwanck was completing the second exchange of vitamins with the
15 customer, Respondent informed Mr. Zwanck that when he finished with the customer, she wished
16 to talk with him.

17 (e) After the customer left the Walgreens Drug store, Respondent informed Mr.
18 Zwanck that she wished to talk with him in the training room. There, Respondent told Mr.
19 Zwanck in a menacing fashion that "sometimes I want to grab you around the neck, throw you up
20 against the wall and kick you in the balls, although I don't think you have any".

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacy License No. 50357, issued to Donna J.
25 Woods-Munoz;

26 ///

27 ///

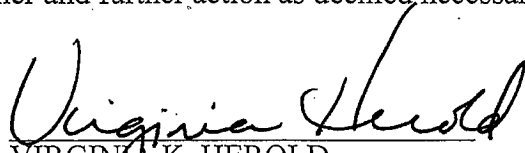
28 ///

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

2. Ordering Respondent Donna J. Woods-Munoz to pay the Board of
Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
Business and Professions Code section 125.3; and

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

DATED: 5/6/09



VIRGINIA K. HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant