

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 RITA M. LANE
Deputy Attorney General
4 State Bar No. 171352
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2614
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3592

12 **PATTI LYNN HUNT**
13 **P.O. Box 2493**
El Cajon, CA 92021
14 **Pharmacy Technician License No. TCH**
2936

A C C U S A T I O N

15 Respondent.

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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 December 30, 1992, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 2936 to Patti Lynn Hunt (Respondent). The Pharmacy Technician License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on
24 August 31, 2010, 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 (Code) unless otherwise indicated.

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

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

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

STATUTORY PROVISIONS

6. Section 4301 of the Code states:

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

...

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

...

(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.

....

7. Section 4022 of the Code states

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

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

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

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1 (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.

2 8. Section 4060 of the Code states:

3 No person shall possess any controlled substance, except that furnished to a
4 person upon the prescription of a physician, dentist, podiatrist, optometrist,
5 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
6 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
7 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
8 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
9 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)
10 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This
section shall not apply to the possession of any controlled substance by a
11 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,
12 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse
13 practitioner, or physician assistant, when in stock in containers correctly labeled
with the name and address of the supplier or producer.

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

14 9. Health & Safety Code section 11170 states that “[n]o person shall prescribe,
15 administer, or furnish a controlled substance for himself.”

16 10. Health & Safety Code section 11173 states in pertinent part that no person shall
17 obtain a controlled substance by fraud, deceit, subterfuge or concealment of a material fact.

18 COSTS

19 11. Section 125.3 of the Code states, in pertinent part, that the Board may request the
20 administrative law judge to direct a licensee found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

23 DRUG

24 12. Ambien is a Schedule IV controlled substance pursuant to Health & Safety
25 Code section 11057(d)(32) and is a dangerous drug pursuant to Business and Professions Code
26 section 4022. Ambien is the trade name for the narcotic substance Zolpidem.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Self-Administration of a Controlled Substance)

3 13. Respondent is subject to disciplinary action under Code section 4301(h) in
4 conjunction with Health and Safety Code section 11170 in that she administered to herself a
5 controlled substance. The circumstances are as follows:

6 14. On or about July 22, 2007, Respondent was working as a pharmacy technician at San
7 Diego Hospice Pharmacy in San Diego, California. While Respondent was on duty as a
8 pharmacy technician, the pharmacist observed impaired behavior by Respondent. Respondent
9 was drowsy, her work process was extremely slow and she was disengaged and spacey. The
10 pharmacy manager asked Respondent to submit to a drug test, which she did. Respondent's drug
11 test was positive for Zolpidem (Ambien). Respondent did not have a prescription for Ambien.
12 Additionally, for the month of July 2007, 30 tablets of Ambien were missing from the pharmacy.

13 SECOND CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct - Illegal Furnishing of a Controlled Substance to Oneself)

15 15. Respondent is subject to disciplinary action under Code section 4301(j) in
16 conjunction with Health & Safety Code section 11170 for illegally furnishing a controlled
17 substance to herself, as more particularly alleged in paragraph 14 above, and incorporated herein
18 by reference.

19 THIRD CAUSE FOR DISCIPLINE

20 (Unprofessional Conduct - Possession of a Controlled Substance Without a Prescription)

21 16. Respondent is subject to disciplinary action under Code section 4301(j) in
22 conjunction with Code section 4060 in that Respondent was in possession of a controlled
23 substance without a legitimate prescription, as more particularly alleged in paragraph 14 above,
24 and incorporated herein by reference.

25 FOURTH CAUSE FOR DISCIPLINE

26 (Unprofessional Conduct - Dispensing While Under the Influence)

27 17. Respondent is subject to disciplinary action under Code section 4301(h) in that she
28 used a dangerous drug to the extent or in a manner as to be dangerous or injurious to others and to

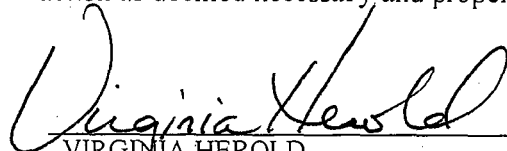
1 the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license when she worked as a pharmacy technician and dispensed
3 medication while she was under the influence of Ambien, as more particularly alleged in
4 paragraph 14 above, and incorporated herein by reference.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacy Technician License No. TCH 2936, issued to Patti
9 Lynn Hunt;
- 10 2. Ordering Patti Lynn Hunt to pay the Board of Pharmacy the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3; and
- 13 3. Taking such other and further action as deemed necessary and proper.

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15 DATED: 5/28/10



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

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