

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 ANTONIO LOPEZ, JR.
Deputy Attorney General
4 State Bar No. 206387
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2536
6 Facsimile: (213) 897-2804
Attorneys for Complainant
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3676

11 **KRISTA LYNN FORREST**
12 **P.O. Box 658**
13 **Oceano, CA 93475**
14 **Pharmacy Technician Registration No. TCH**
12072

A C C U S A T I O N

15 Respondent.

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17 Complainant alleges:
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19 **PARTIES**

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

22 2. On or about March 8, 1994, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 12072 to Krista Lynn Forrest (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on September 30, 2011, unless renewed.

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JURISDICTION

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

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

STATUTORY PROVISIONS

5. Section 490 of the Code states:
“(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

“(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

“(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.”

6. Section 4300 of the Code states in pertinent part:

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

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

4 “(1) Suspending judgment.

5 “(2) Placing him or her upon probation.

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

7 “(4) Revoking his or her license.

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

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

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

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

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21 “(i) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
3 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
4 of this provision. The board may take action when the time for appeal has elapsed, or the
5 judgment of conviction has been affirmed on appeal or when an order granting probation is made
6 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
7 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
8 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
9 indictment.”

10 **REGULATORY PROVISION**

11 8. California Code of Regulations, title 16, section 1770, states:

12 "For the purpose of denial, suspension, or revocation of a personal or facility license
13 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
14 crime or act shall be considered substantially related to the qualifications, functions or duties of a
15 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
16 licensee or registrant to perform the functions authorized by his license or registration in a manner
17 consistent with the public health, safety, or welfare.”

18 **DANGEROUS DRUGS/CONTROLLED SUBSTANCES**

19 9. Oxymorphone is a controlled substance pursuant to Health and Safety Code section
20 11055, subdivision (b)(1)(O), and a dangerous drug pursuant to Code section 4022.

21 10. Methadone is a controlled substance pursuant to Health and Safety Code section
22 11055, subdivision (c)(14), and a dangerous drug pursuant to Code section 4022.

23 11. Diazepam is a controlled substance pursuant to Health and Safety Code section
24 11057, subdivision (d)(9), and a dangerous drug pursuant to Code section 4022.

25 12. Lorazepam is a controlled substance pursuant to Health and Safety Code section
26 11057, subdivision (d)(16), and a dangerous drug pursuant to Code section 4022.

27 13. Zolpidem is a controlled substance pursuant to Health and Safety Code section
28 11057, subdivision (d)(32), and a dangerous drug pursuant to Code section 4022.

1 attend a second offender drinking driver program. The circumstances giving rise to the
2 conviction are that on or about September 22, 2008, Respondent, drove her vehicle up on the
3 sidewalk. Upon making contact with Respondent, officers noticed she had great difficulty exiting
4 her vehicle, she was confused and had to lean against her vehicle for support. Respondent was
5 unable to perform the field sobriety tests. Officers recovered Methadone, Propoxyphene,
6 Zolpidem, and Lorazepam from the Respondent.

7 c. As a result of Respondent's September 22, 2008 arrest for driving under the
8 influence, Respondent violated her probation related to Case No. M403452. Respondent's
9 probation in that case was extended until January 28, 2010 and Respondent was ordered to spend
10 ten (10) days in jail.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Use of a Controlled Substance in Manner Dangerous to Self or Others)**

13 16. Respondent is subject to disciplinary action pursuant to Code section 4301
14 subdivision (h), in that Respondent used controlled substances and or dangerous drugs in a
15 manner dangerous or injurious to herself and the public. Complainant's allegations, as set forth
16 in paragraph 11, subparagraphs (a) and (b), are incorporated by reference, as though fully set
17 forth.

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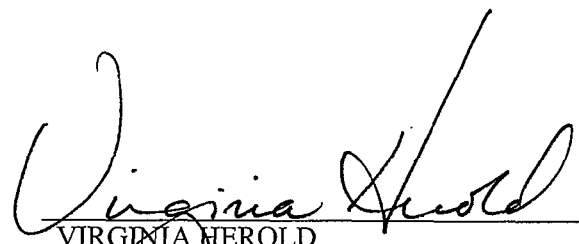
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PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 12072, issued to Krista Lynn Forrest;
2. Ordering Krista Lynn Forrest to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/28/10



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

LA2010501475