

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 NICOLE R. COOK
Deputy Attorney General
4 State Bar No. 263607
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:
13 LISA MARIE DOROSKY
1509 Ocean Avenue
14 Seal Beach, CA 90740
15 Pharmacy Technician Registration No. TCH
63119
16 Respondent.

Case No. 3721

A C C U S A T I O N

17
18
19
20 Complainant alleges:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 24 2. On or about June 13, 2005, the Board of Pharmacy issued Original Pharmacy
25 Technician Registration Number TCH 63119 to Lisa Marie Dorosky (Respondent). The Original
26 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
27 brought herein and will expire on March 31, 2011, unless renewed.

1 and the board may inquire into the circumstances surrounding the commission of
2 the crime in order to fix the degree of discipline or to determine if the conviction is
3 substantially related to the qualifications, functions, and duties of the licensee in
4 question.

5 As used in this section, "license" includes "certificate," "permit,"
6 "authority," and "registration."

7 9. Section 4301 of the Code states:

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

12

13 (g) Knowingly making or signing any certificate or other document that
14 falsely represents the existence or nonexistence of a state of facts.

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

21

22 (k) The conviction of more than one misdemeanor or any felony involving
23 the use, consumption, or self-administration of any dangerous drug or alcoholic
24 beverage, or any combination of those substances.

25 (l) The conviction of a crime substantially related to the qualifications,
26 functions, and duties of a licensee under this chapter. The record of conviction of
27 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
28 States Code regulating controlled substances or of a violation of the statutes of this
state regulating controlled substances or dangerous drugs shall be conclusive
evidence of unprofessional conduct. In all other cases, the record of conviction
shall be conclusive evidence only of the fact that the conviction occurred. The
board may inquire into the circumstances surrounding the commission of the
crime, in order to fix the degree of discipline or, in the case of a conviction not
involving controlled substances or dangerous drugs, to determine if the conviction
is of an offense substantially related to the qualifications, functions, and duties of a
licensee under this chapter. A plea or verdict of guilty or a conviction following a
plea of nolo contendere is deemed to be a conviction within the meaning of this
provision. The board may take action 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

1 subsequent order under Section 1203.4 of the Penal Code allowing the person to
2 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside
3 the verdict of guilty, or dismissing the accusation, information, or indictment.

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

.....

REGULATORY PROVISIONS

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

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

11. California Code of Regulations, title 16, section 1769, states:

.....

(b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate 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.

1 possible drunk driver. The officer located the vehicle exiting the drive-through at McDonalds on
2 PCH and Marina Drive. The vehicle drove very slowly through the parking lot and made a wide
3 turn onto Marina. The officer observed the vehicle drifting towards the left curb, nearly hitting it.
4 After the officer observed the vehicle driving consistently at a 10 mile-per-hour pace in a 25 mile-
5 per-hour zone, the officer initiated a traffic stop and Respondent was identified as the driver of
6 the vehicle. When the officer contacted Respondent, he smelled an odor of alcohol on her breath,
7 her eyes were bloodshot and watery, and her speech was slow and slurred. Respondent exited
8 and held onto her vehicle for support. Respondent attempted to perform the field sobriety tests,
9 stumbled and said "I can't do this." Respondent refused to complete the tests and she was
10 arrested for driving under the influence of alcohol. A blood sample was obtained from
11 Respondent at the Seal Beach Police Department. Respondent's blood alcohol level was .30
12 percent by weight.

13 c. As a result of her conviction, on or about July 23, 2009, Respondent was sentenced
14 3 years summary probation, ordered to attend and complete the Multiple Offender Alcohol
15 Program, required to pay all fines, fees and restitution, and sentenced to 60 days in custody.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct – Use of Alcohol in a Manner Dangerous to Self or Others)**

18 15. Respondent is subject to disciplinary action under section 4301(h) of the Code for
19 unprofessional conduct in that Respondent used alcohol to an extent which was dangerous to
20 herself or others, as is set forth above in paragraphs 13 through 14, which are incorporated herein
21 by reference as though fully set forth herein.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct – Two Misdemeanor Convictions Involving Use Alcohol)**

24 16. Respondent is subject to disciplinary action under section 4301(k) of the Code for
25 unprofessional conduct in that Respondent was convicted of more than one misdemeanor
26 involving the use or consumption of alcohol, as is set forth above in paragraphs 13 and 14, which
27 are incorporated herein by reference as though fully set forth herein.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Falsely Stating Facts on Application for Licensure)**

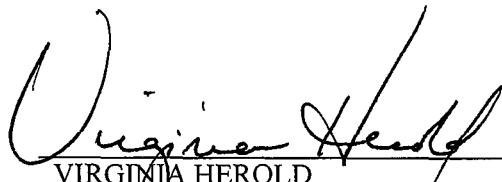
3 17. Respondent is subject to disciplinary action under section 4301(g) of the Code for
4 unprofessional conduct in that Respondent falsely represented facts on her application for
5 licensure as a pharmacy technician when she failed to disclose her February 20, 2002 conviction
6 for driving under the influence of alcohol, and instead represented that she did not have any
7 convictions.

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 63119,
12 issued to Lisa Marie Dorosky
- 13 2. Ordering Lisa Marie Dorosky to pay the Board of Pharmacy the reasonable costs of
14 the 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.

17
18
19 DATED: 7/15/10



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

20
21
22
23 SD2010800726
80464716.doc