

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12
13 **JASON DANIEL CASEY**
655 EUCALYPTUS AVENUE
NEWMAN, CA 95360
14
15 TECHNICIAN REGISTRATION NO. TCH 85822
16 Respondent.

Case No. 4353

ACCUSATION

17
18 Complainant alleges:

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 **JURISDICTION**

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

26 3. The Board of Pharmacy issued Respondent Jason Daniel Casey (Respondent)
27 Original Pharmacy Technician Registration Number TCH 85822 on August 29, 2008. The
28 license expired on June 30, 2012 and has not been renewed. The license is currently cancelled.

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

4. Section 4300.1 of the code 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.

5. Section 4300 of the Code states:

(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.

(c) The board may refuse a license to any applicant guilty of unprofessional conduct.

...

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

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:

...

1 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
2 deceit, or corruption, whether the act is committed in the course of relations as a
3 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

...

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

...

6 (l) The conviction of a crime substantially related to the qualifications,
7 functions, and duties of a licensee under this chapter. The record of conviction of a
8 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
9 States Code regulating controlled substances or of a violation of the statutes of this
10 state regulating controlled substances or dangerous drugs shall be conclusive
11 evidence of unprofessional conduct. In all other cases, the record of conviction shall
12 be conclusive evidence only of the fact that the conviction occurred. The board may
13 inquire into the circumstances surrounding the commission of the crime, in order to
14 fix the degree of discipline or, in the case of a conviction not involving controlled
15 substances or dangerous drugs, to determine if the conviction is of an offense
16 substantially related to the qualifications, functions, and duties of a licensee under this
17 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
18 contendere is deemed to be a conviction within the meaning of this provision. The
19 board may take action when the time for appeal has elapsed, or the judgment of
20 conviction has been affirmed on appeal or when an order granting probation is made
21 suspending the imposition of sentence, irrespective of a subsequent order under
22 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
23 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
24 dismissing the accusation, information, or indictment.

...

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

18 7. Section 4059.5 of the Code states:

19 (a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
20 devices may only be ordered by an entity licensed by the board and shall be delivered
21 to the licensed premises and signed for and received by a pharmacist. . . .

22 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
23 revoke a license on the ground that the licensee has been convicted of a crime substantially
24 related to the qualifications, functions, or duties of the business or profession for which the
25 license was issued.

26 COST RECOVERY

27 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Criminal Conviction)**

5 10. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
6 section 4300, subsection (a) for violating section 4301, subsection (l) and section 490 in that
7 Respondent has been convicted of the following crimes, which are substantially related to his
8 duties as a pharmacy technician, as follows:

9 a. On or about March 12, 2013, in a criminal proceeding entitled *People v. Casey, Jason*
10 *Daniel* in Stanislaus County Superior Court, Case Number 1444526, Respondent was convicted
11 on his plea of *nolo contendere* for violating Health and Safety Code section 11350(a), possession
12 of a controlled substance, a felony, and Penal Code section 211, robbery, a felony. The
13 circumstances of the crime are that on or about May 2, 2012, after having been released from jail
14 that morning, Respondent entered Kaiser Hospital pharmacy waiting area and stayed close by to
15 the 78 year-old victim, MT who was filling a prescription for pain medications for herself and her
16 husband. Once MT left the building, Respondent followed the victim and her husband to their
17 car, forcibly removed the prescription bag from MT's person, shoving her in the process, and ran
18 away.

19 b. On or about February 1, 2012, in a criminal proceeding entitled *People v. Casey,*
20 *Jason Daniel* in Stanislaus County Superior Court, Case Number 1435297, Respondent was
21 convicted on his plea of *nolo contendere* for violating Health and Safety Code section 11173(a),
22 obtaining a controlled substance by fraud, a misdemeanor. The circumstances are as follows:
23 On or about August 1, 2011, Respondent called Target Pharmacy in Turlock California and
24 falsely identified himself as a representative of Doctor's Medical Center Emergency Room. He
25 ordered a prescription for Tussionex for a patient, who was not in fact a patient at Doctor's
26 medical Center Emergency Room. The individual in whose name Respondent called the
27 prescription was his mother. On or about August 4, 2011, Respondent attempted to pick up the
28 prescription. Respondent was detained and subsequently arrested by Turlock Police Department.

1 Respondent initially denied knowing what the prescription was and later admitted that he called
2 in the prescription, that he was addicted to narcotics and that the prescription was for his own
3 personal use.

4 c. On or about October 26, 2010, in a prior criminal proceeding entitled *People v.*
5 *Casey, Jason Daniel* in Stanislaus County Superior Court, Case Number 1424520, Respondent
6 was convicted on his plea of *nolo contendere* for violating Penal Code section 496(A), receiving
7 stolen property, a misdemeanor. Respondent was placed on three years of informal probation.
8 The circumstances are that on or about October 11, 2010, Respondent willfully, unlawfully and
9 feloniously bought, received, concealed, sold, withheld, or sold property of another, knowing that
10 said property had been stolen.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Violation of Laws Regulating Controlled Substances/Dangerous Drugs)**

13 11. Respondent is subject to disciplinary action for unprofessional conduct under section
14 4300, subsection (a), for violating section 4301, subsection (j) in that Respondent violated laws
15 regulating dangerous drugs and controlled substances, as more fully set forth in paragraphs 10 (a)
16 and (b), above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Fraudulent Order of Dangerous Drugs)**

19 12. Respondent is subject to disciplinary action for unprofessional conduct under section
20 4300, subsection (a), for violating section 4059.5 in that Respondent fraudulently ordered a
21 dangerous drug without having the proper licensing authority to do so, as further set forth in
22 paragraph 10 (b).

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Dishonest Acts)**

25 13. Respondent is subject to disciplinary action for unprofessional conduct under section
26 4300, subsection (a), for violating section 4301, subsection (f) in that Respondent committed
27 dishonest acts, as further set forth in paragraphs 10 and 12, above, individually and collectively.

28 ///

1 DISCIPLINE CONSIDERATIONS

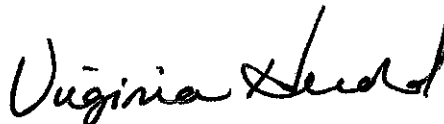
2 14. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges that on or about April 14, 2011, in a prior disciplinary action entitled *In the*
4 *Matter of the Citation and Fine Against Jason Daniel Casey* before the Board of Pharmacy, in
5 Case Number CI 201045983, Respondent's license was cited for unprofessional conduct in
6 violation of Code section 4301, subsection (f), dishonest acts, and 4301, subsection (l), criminal
7 conviction, for the following: on or about October 26, 2010, in a prior criminal proceeding
8 entitled *People v. Casey, Jason Daniel* in Stanislaus County Superior Court, Case Number
9 1424503, Respondent was convicted on his plea of *nolo contendere* for violating Penal Code
10 section 487(a), grand theft, a misdemeanor. The circumstances are that on or about October 8,
11 2010, Respondent willfully and unlawfully took the property of another of a value exceeding four
12 hundred dollars (\$400.00). The decision from the citation is now final and is incorporated by
13 reference as if fully set forth.

14 PRAYER

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

- 17 1. Revoking or suspending Technician Registration Number TCH 85822, issued to
18 Jason Daniel Casey;
- 19 2. Ordering Jason Daniel Casey to pay the Board of Pharmacy the reasonable costs of
20 the investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 5/18/16



25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

SA2012107017/10962183.doc