

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JANSEN
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4374

12 **JAMES PROSPER AHRENHOLTZ AKA**
13 **JAMES AHRENHOLTZ**
14 **1409 Pueblo Drive**
15 **Modesto, CA 95355**

A C C U S A T I O N

16 **Pharmacy Technician Registration No. TCH**
17 **99246**

Respondent.

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 2. On or about February 26, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 99246 to James Prosper Ahrenholtz aka James Ahrenholtz
24 (Respondent). The Pharmacy Technician Registration was in full force and effect at all times
25 relevant to the charges brought herein and expired on April 30, 2013, it has not yet been renewed.

26 ///

27 ///

28 ///

1 **JURISDICTION**

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

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

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

7 "(b) The board shall discipline the holder of any license issued by the board... whose case
8 has been heard by the board and found guilty, by any of the following methods:

9 "(1) Suspending judgment.

10 "(2) Placing him or her upon probation.

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

12 "(4) Revoking his or her license.

13 "(5) Taking any other action in relation to disciplining him or her as the board in its
14 discretion may deem proper."

15 5. Code section 4300.1 states: "The expiration, cancellation, forfeiture, or suspension of
16 a board-issued license by operation of law or by order or decision of the board or a court of law,
17 the placement of a license on a retired status, or the voluntary surrender of a license by a licensee
18 shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or
19 action or disciplinary proceeding against, the licensee or to render a decision suspending or
20 revoking the license."

21 6. Section 4301 of the Code states in pertinent part:

22 "The board shall take action against any holder of a license who is guilty of unprofessional
23 conduct... Unprofessional conduct shall include, but is not limited to, any of the following:

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

27 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the
3 practice authorized by the license.

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

6 "(l) The conviction of a crime substantially related to the qualifications, functions, and
7 duties of a licensee under this chapter. The record of conviction of a violation of
8 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
9 regulating controlled substances or of a violation of the statutes of this state regulating
10 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
11 conduct. In all other cases, the record of conviction shall be conclusive evidence only of
12 the fact that the conviction occurred. The board may inquire into the circumstances
13 surrounding the commission of the crime, in order to fix the degree of discipline or, in
14 the case of a conviction not involving controlled substances or dangerous drugs, to
15 determine if the conviction is of an offense substantially related to the qualifications,
16 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
subsequent order under Section 1203.4 of the Penal Code allowing the person to
withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
verdict of guilty, or dismissing the accusation, information, or indictment.

17 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
18 violation of or conspiring to violate any provision or term of this chapter or of the applicable
19 federal and state laws and regulations governing pharmacy, including regulations established by
20 the board or by any other state or federal regulatory agency. "

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

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

28 8. Section 4060 of the Code states:

1 "No person shall possess any controlled substance, except that furnished to a person upon
2 the prescription of a physician..."

3 9. Section 4022 of the Code states

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

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

8 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
9 prescription or furnished pursuant to Section 4006."

10 DRUGS

11 10. Hydrocodone is a Schedule III controlled substance as designated by Health and
12 Safety Code section 11056(e) and a dangerous drug pursuant to Code section 4022.

13 COST RECOVERY

14 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 FIRST CAUSE FOR DISCIPLINE

21 (Substantially Related Criminal Conviction)

22 12. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
23 on or about July 9, 2012, in Stanislaus County Superior Court in the case entitled *People v. James*
24 *Prosper Ahrenholtz*, Case No. 1443646, Respondent pled nolo contendere to violating Penal Code
25 section 487(a), a felony (Grand Theft – Property exceeding value of \$950) and Health and Safety
26 Code section 11351, a felony (possession of a controlled substance for purpose of sale). The
27 circumstances are as follows:

28 ///

1
2
3
4
5
6
7
8
9

FOURTH CAUSE FOR DISCIPLINE
(Dishonest/Fraudulent/Corrupt/Deceitful Acts)

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

17. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that between August, 2011, and March 12, 2012, while employed and on duty as a pharmacy technician at the Walgreens store in Turlock, California, Respondent committed dishonest, fraudulent, corrupt, and/or deceitful acts by stealing a large quantity of hydrocodone, a controlled substance, from the Walgreens pharmacy, as described above in paragraphs 12 and 13.

FIFTH CAUSE FOR DISCIPLINE
(Violation of Laws Governing Pharmacy)

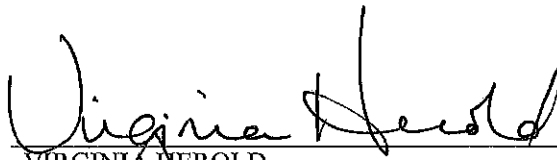
18. Respondent is subject to disciplinary action under section 4301, subdivision (o) in that between August 2011, and March 12, 2012, Respondent committed acts in violation of the laws governing pharmacy, as set forth above in paragraphs 12 through 17.

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 99246, issued to James Prosper Ahrenholtz aka James Ahrenholtz
2. Ordering James Prosper Ahrenholtz aka James Ahrenholtz 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 7/22/13



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

SA2012107943
11099196.doc