

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 TIMOTHY J. McDONOUGH
Deputy Attorney General
4 State Bar No. 235850
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 622-2134
Facsimile: (510) 622-2270
7 E-mail: Tim.McDonough@doj.ca.gov
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 4433

12 **STACEY ANN WATSON**
13 **304 Hillcrest Court**
San Ramon, CA 94583

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **108623**

16 Respondent.

17
18
19 Complainant alleges:

20 PARTIES

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

23 2. On or about February 11, 2011, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 108623 to Stacey Ann Watson (Respondent). The Pharmacy
25 Technician Registration expired on September 30, 2012, and has not been renewed.

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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 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300 of the Code states:

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

10 "(b) The board shall discipline the holder of any license issued by the board, whose default
11 has been entered or whose case has been heard by the board and found guilty, by any of the
12 following methods:

13 "(1) Suspending judgment.

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

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

16 "(4) Revoking his or her license.

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

19 ...

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

25 6. Section 4300.1 of the Code states:

26 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
27 operation of law or by order or decision of the board or a court of law, the placement of a license
28 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board

1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

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

7 STATUTORY PROVISIONS

8 8. Section 4301 of the Code states, in relevant part:

9 "The board shall take action against any holder of a license who is guilty of unprofessional
10 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

11 Unprofessional conduct shall include, but is not limited to, any of the following:

12 "(a) Gross immorality.

13 ...

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

17 ...

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

20 ...

21 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
22 board."

23 9. Section 4059 of the Code states, in relevant part:

24 "(a) A person may not furnish any dangerous drug, except upon the prescription of a
25 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
26 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
27 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
28 3640.7."

1 10. Section 4060 of the Code states:

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

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

16 11. Section 4022 of the Code states

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

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

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

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

26 DRUG STATUTES

27 12. Hydrocodone is a Schedule III controlled substance as designated by Health and
28 Safety Code section 11056, subdivision (e)(5), and a dangerous drug as designated by Business

1 and Professions Code section 4022. Hydrocodone is a pain medication and is combined with
2 Acetaminophen or Ibuprofen.

3 COST RECOVERY

4 13. Section 125.3 of the Code states, in relevant part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

8 FACTUAL BACKGROUND

9 14. Respondent worked as a pharmacy technician at CVS Pharmacy # 9348 (CVS) in San
10 Ramon, California from June of 2011, until October of 2011. From approximately the middle of
11 August of 2011, to October 18, 2011, Respondent stole drugs from CVS while she was working
12 as a pharmacy technician. Respondent took handful of pills and put them in her pocket and then
13 left the store with them. She would not take actual bottles of the drugs. The drugs she took
14 included Hydrocodone/Acetaminophen and Hydrocodone/Ibuprofen.

15 15. CVS had suspected Respondent of possibly taking drugs when drugs were missing
16 from the pharmacy. On or about October 21, 2011, Shannon Prior, the CVS Loss Prevention
17 Manager, interviewed Respondent about stealing pills from the pharmacy. At that time,
18 Respondent admitted to taking pills from the pharmacy and submitted a written statement
19 explaining the theft of the drugs. In this statement, she indicated that she stole the drugs to give
20 to three people who were suffering from pain—her grandmother, a cousin, and a friend.
21 Respondent estimated that she took approximately 925 pills.

22 **FIRST CAUSE FOR DISCIPLINE**
23 **(Furnishing Dangerous Drugs without a Prescription)**
24 **(Bus. & Prof Code 4059, subd. (a))**

25 16. Respondent has subjected her Pharmacy Technician License to disciplinary action
26 under Code section 4059, subdivision (a), in that she furnished controlled substances and
27 dangerous drugs to three people without a prescription. The circumstances are explained more
28 fully in paragraphs 14 and 15, above.

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1 **SECOND CAUSE FOR DISCIPLINE**
2 **(Unprofessional Conduct--Act of Dishonesty, Fraud, or Deceit)**
3 **(Bus & Prof. Code 4301, subd. (f))**

4 17. Respondent has subjected her Pharmacy Technician License to disciplinary action
5 under Code section 4301, subdivision (f), in that she stole prescription drugs from CVS, her
6 employer. The circumstances are explained more fully in paragraphs 14 and 15, above.

7 **THIRD CAUSE FOR DISCIPLINE**
8 **(Possession of Controlled Substance without a Prescription)**
9 **(Bus. & Prof. Code 4060)**

10 18. Respondent has subjected her Pharmacy Technician License to disciplinary action
11 under Code section 4060, in that she possessed controlled substances without a prescription. The
12 circumstances are explained more fully in paragraphs 14 and 15, above.

13 **FOURTH CAUSE FOR DISCIPLINE**
14 **(Unprofessional Conduct-Subversion of Investigation)**
15 **(Bus. & Prof. Code 4301, subd. (q))**

16 19. Respondent has subjected her Pharmacy Technician License to disciplinary action
17 under Code section 4301, subdivision (q), in that she subverted or attempted to subvert an
18 investigation by the Board of Pharmacy. Specifically, Respondent failed to respond to
19 correspondence from the Board of Pharmacy regarding her theft of controlled substances from
20 CVS. Correspondence was sent to Respondent on November 28, 2011, February 22, 2012, and
21 May 24, 2012 requesting a meeting. Respondent did not respond to these letters.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
24 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 108623,
26 issued to Stacey Ann Watson;

27 2. Ordering Stacey Ann Watson to pay the Board of Pharmacy the reasonable costs of
28 the investigation and enforcement of this case, pursuant to Business and Professions Code section
125.3;

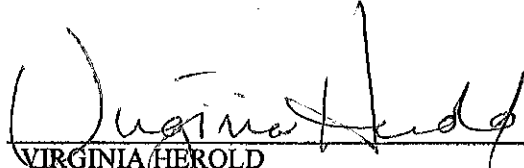
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3. Taking such other and further action as deemed necessary and proper.

DATED: 6/27/13



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

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