

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 CRISTINA FELIX  
Deputy Attorney General  
4 State Bar No. 195663  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2455  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5158

13 **CHRISTOPHER SAYOC CASTRO**  
15507 Longworth Ave.  
Norwalk, CA 90650

**ACCUSATION**

14 Pharmacy Technician Registration  
No. TCH 117625

15 Respondent.

16  
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 (Board).

22 2. On or about May 18, 2012, the Board issued Pharmacy Technician Registration No.  
23 TCH 117625 to Christopher Sayoc Castro (Respondent). The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 August 31, 2015, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following  
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 STATUTORY PROVISIONS

2 4. Section 4300 provides in pertinent part, that every license issued by the Boards is  
3 subject to discipline, including suspension or revocation.

4 5. Section 4300.1 states:

5 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
6 operation of law or by order or decision of the board or a court of law, the placement of a license  
7 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
8 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
9 proceeding against, the licensee or to render a decision suspending or revoking the license."

10 6. Section 4301 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:

14 ...

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

18 ...

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

24 ...

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

27 ...

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1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
3 federal and state laws and regulations governing pharmacy, including regulations established by  
4 the board or by any other state or federal regulatory agency.”

5 7. Section 4060 states:

6 “No person shall possess any controlled substance, except that furnished to a person upon  
7 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
8 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
9 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
10 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
11 pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply to the  
12 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,  
13 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-  
14 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled  
15 with the name and address of the supplier or producer.

16 Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a  
17 physician assistant, or naturopathic doctor, to order his or her own stock of dangerous drugs and  
18 devices.”

19 8. Health and Safety Code 11170 states: “No person shall prescribe, administer, or  
20 furnish a controlled substance for himself.”

21 **REGULATORY PROVISIONS**

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

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

1 **COST RECOVERY**

2 10. Section 125.3 states, in pertinent part, that the Board may request the administrative  
3 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
5 case.

6 11. **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

7 a. "Ambien," a brand name for Zolpidem Tartrate, is a Schedule IV controlled substance  
8 pursuant to Health and Safety Code section 11057, subdivision (d)(32), and is categorized as a  
9 dangerous drug pursuant to section 4022.

10 b. "Phentermine," is a Schedule IV controlled substance pursuant to Health and Safety  
11 Code section 11057, subdivision (f)(4), and is categorized as a dangerous drug pursuant to section  
12 4022.

13 **SUMMARY OF FACTS**

14 12. On or about January 17, 2013, Respondent was working as a pharmacy technician at  
15 Rite Aid #5490 during the 1:30 p.m. to 10:00 p.m. shift. During his shift, Respondent was  
16 putting medication bottles used to fill prescriptions back on shelves. A bottle cap fell on the  
17 floor. When Respondent bent down to pick up the bottle cap, two pills fell out of his shirt pocket.  
18 Respondent picked up the pills and gave them to another employee. He pulled out a few more  
19 pills out of his shirt pocket and alleged at that time that the pills, including Phentermine, had  
20 fallen into his pocket while putting away the medication. No prescriptions had been typed for  
21 Phentermine that day and Respondent had previously bragged about losing weight. The  
22 Pharmacist in Charge audited the Phentermine and found tablets were unaccounted for. On  
23 January 24, 2013, Respondent admitted that he had diverted Phentermine tablets, a weight loss  
24 aid, and Ambien tablets, a sleep aid, for his personal use. On February 25, 2013, the Board  
25 received a copy of the DEA Report or Theft or Loss of Controlled Substance notification from  
26 Rite Aid #5490. The Report documented a loss of 61 tablets of Zolpidem, 100 tablets of Ambien,  
27 and 20 tablets of Phentermine due to employee pilferage during the period from July 3, 2012 to  
28 January 29, 2013.

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**FIRST CAUSE FOR DISCIPLINE**

**(Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

13. Respondent is subject to disciplinary action under section 4301, subdivision (f), on the grounds of unprofessional conduct for violating Health and Safety Code section 11170, in that Respondent committed acts involving moral turpitude, dishonesty, fraud, or deceit. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

**SECOND CAUSE FOR DISCIPLINE**

**(Illegal Possession of Controlled Substance)**

14. Respondent is subjected to disciplinary action under section 4060 in that while working as a pharmacy technician at Rite Aid #5490, Respondent illegally possessed controlled substances. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

**THIRD CAUSE FOR DISCIPLINE**

**(Use/Under the Influence of a Controlled Substance)**

15. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that Respondent, by his own admission, used and/or was under the influence of a controlled substance. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

**FOURTH CAUSE FOR DISCIPLINE**

**(Furnishing of Controlled Substances)**

16. Respondent is subject to disciplinary action under section 4301, subdivision (j), on the grounds of unprofessional conduct for violating Health and Safety Code section 11170, in that Respondent furnished controlled substances to himself. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

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1 **DISCIPLINE CONSIDERATIONS**

2 17. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges as follows:

4 a. On or about July 31, 2009, after pleading nolo contendere, Respondent was convicted  
5 of one misdemeanor count of violating Penal Code 484, subdivision (a) [petty theft] in the  
6 criminal proceeding entitled *The People of the State of California v. Christopher Castro*. The  
7 Court sentenced Respondent to serve 2 days in Los Angeles County Jail and placed him on 3  
8 years probation, with terms and conditions.

9 b. The circumstances surrounding the conviction are that on or about July 15, 2009,  
10 officers from the Manhattan Beach Police Department were dispatched to Target regarding a  
11 petty theft report. A Target employee had recognized Respondent as the same subject who took  
12 items from the store the day before. He observed Respondent selecting several items and placing  
13 them in the rack underneath the shopping cart. Respondent passed manned registers without  
14 attempting to pay for any of the items and exited the store. A Target employee contacted  
15 Respondent outside the exit doors and he was subsequently arrested for petty theft.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Technician Registration No. TCH 117625, issued  
20 to Christopher Sayoc Castro;

21 2. Ordering Christopher Sayoc Castro to pay the Board the reasonable costs of the  
22 investigation and enforcement of this case, pursuant to section 125.3; and

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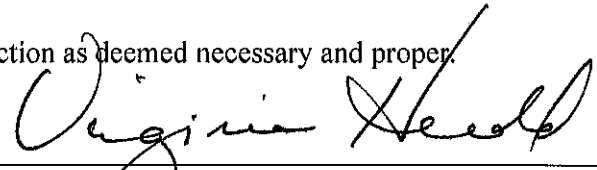
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3. Taking such other and further action as deemed necessary and proper.

DATED: \_\_\_\_\_

9/13/14



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

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