

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 RON ESPINOZA  
Deputy Attorney General  
4 State Bar No. 176908  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2100  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5429

12 **DAISY L. LEE**  
13 **125 North Pauline Street**  
14 **Anaheim, CA 92805**

**A C C U S A T I O N**

15 **Pharmacy Technician Registration No.**  
**TCH 28654**

16 Respondent.

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 2. On or about March 12, 1999, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 28654 to Daisy L. Lee (Respondent). The Pharmacy Technician  
24 Registration expired on November 30, 2014, and was cancelled on March 1, 2015.

25 **JURISDICTION**

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

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

5 5. Section 4300 of the Code states:

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

7 STATUTORY PROVISIONS

8 6. Section 4301 of the Code states:

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 “... ”

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

16 “... ”

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 “... ”

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

24 “... ”

25 7. Section 4059 of the Code states:

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

1 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
2 3640.7.”

3 DRUGS

4 8. Lexapro, brand name for escitalopram, is an antidepressant belonging to a group of  
5 drugs called selective serotonin reuptake inhibitors (SSRIs). Lexapro is used to treat anxiety in  
6 adults. Lexapro is a dangerous drug pursuant to Business and Professions Code section 4022.

7 9. Metformin is an oral diabetes medicine to control blood sugar levels. Metformin  
8 is used for type 2 diabetes. Metformin is a dangerous drug pursuant to Business and Professions  
9 Code section 4022.

10 10. Glimperide is an antidiabetic drug used for treating type 2 diabetes. Glimperide is  
11 a dangerous drug pursuant to Business and Professions Code section 4022.

12 COST RECOVERY

13 11. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licentiate found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case.

17 FACTS

18 12. On February 18, 2014, CVS contacted the Board of Pharmacy regarding the loss of  
19 a controlled substance. Respondent was interviewed by the Loss Prevention Manager of CVS,  
20 and on March 25, 2014, she provided a written statement wherein she admitted to stealing from  
21 the store two bottles of generic Lexapro, 20mg; four bottles of Metformin 850mg; and four  
22 bottles of Glimperide while working as a pharmacy technician at CVS. Respondent admitted to  
23 furnishing these stolen drugs to her son.

24 13. On or about September 23, 2014, a Pharmacy Board Inspector sent a letter to  
25 Respondent requesting that she contact the inspector no later than 72 hours after receipt of the  
26 letter in order to meet and discuss her investigation into the missing drugs. No response was  
27 received by Respondent.

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1           14.     On or about October 3, 2014, the Pharmacy Board inspector sent a second letter to  
2 Respondent requesting that she contact the inspector no later than 72 hours after receipt of the  
3 letter in order to meet and discuss her investigation into the missing drugs. Again, no response  
4 was received by Respondent.

5           15.     On or about October 14, 2014, the Pharmacy Board inspector sent a third letter to  
6 Respondent requesting that she contact the inspector no later than 72 hours after receipt of the  
7 letter to meet and discuss her investigation. Respondent again failed to respond to the request.

8                           **FIRST CAUSE FOR DISCIPLINE**

9                           **(Failure to Cooperate with an Investigation)**

10           16.     Respondent is subject to disciplinary action under Code section 4301(q) for  
11 unprofessional conduct in that Respondent engaged in conduct that subverted an investigation of  
12 the Board by failing to respond to contact by the Board on three separate occasions, specifically  
13 September 23, October 3 and October 14, 2014, as more fully set forth in paragraphs 12-15,  
14 above, and incorporated by this reference as though set forth in full herein.

15                           **SECOND CAUSE FOR DISCIPLINE**

16                           **(Acts Involving Dishonesty, Fraud and Deceit)**

17           17.     Respondent is subject to disciplinary action under Code section 4301(f) for  
18 unprofessional conduct by committing acts involving dishonesty, fraud and deceit when  
19 Respondent stole dangerous drugs from her employer CVS, which included Lexapro, Metformin  
20 and Glimpiride, as more fully set forth in paragraphs 12-15, above, and incorporated by this  
21 reference as though set forth in full herein.

22                           **THIRD CAUSE FOR DISCIPLINE**

23                           **(Furnishing Dangerous Drugs Without Prescription)**

24           18.     Respondent is subject to disciplinary action under Code section 4301(o), in  
25 conjunction with Code section 4059, for unprofessional conduct in that Respondent stole  
26 Lexapro, Metformin and Glimperide from her employer CVS, and furnished these dangerous  
27 drugs without prescription to her son, as more fully set forth in paragraphs 12-15, above, and  
28 incorporated by this reference as though set forth in full herein.

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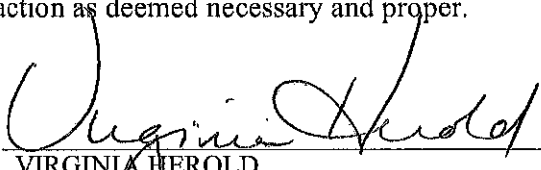
PRAYER

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 28654, issued to Daisy L. Lee;
2. Ordering Daisy L. Lee 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:

2/12/16



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

SD2015700686