In the Matter of the Accusation Against:  Case No. 5429

DAISY L. LEE
125 North Pauline Street
Anaheim, CA 92805
Pharmacy Technician Registration No.
TCH 28654
Respondent.

Complainant alleges:

PARTIES

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

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

JURISDICTION

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

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

5. Section 4300 of the Code states:

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

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:

“...

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

“...

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

“...

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

“...

7. Section 4059 of the Code states:

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

**DRUGS**

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

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

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

**COST RECOVERY**

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

**FACTS**

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

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

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

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

**FIRST CAUSE FOR DISCIPLINE**

(Failure to Cooperate with an Investigation)

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

**SECOND CAUSE FOR DISCIPLINE**

(Acts Involving Dishonesty, Fraud and Deceit)

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

**THIRD CAUSE FOR DISCIPLINE**

(Furnishing Dangerous Drugs Without Prescription)

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