

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 NANCY A. KAISER  
Deputy Attorney General  
4 State Bar No. 192083  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-5794  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:  
12 **VICKIE L. WHITTEN**  
26677 6th Street  
13 Highland, CA 92346  
14 **Pharmacy Technician Registration No. TCH**  
31180  
15  
16 Respondent.

Case No. 5517

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

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 October 19, 1999, the Board of Pharmacy ("Board") issued Pharmacy  
23 Technician Registration Number TCH 31180 to Vickie L. Whitten ("Respondent"). The Pharmacy  
24 Technician Registration will expire on May 31, 2017, unless renewed.

25 **JURISDICTION**

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

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"(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.

....

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

....

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, 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.

...

"(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

1 federal and state laws and regulations governing pharmacy, including regulations established by the  
2 board or by any other state or federal regulatory agency.

3 . . . .

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

6 **REGULATION**

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

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

14 **COST RECOVERY**

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

19 **DANGEROUS DRUGS<sup>1</sup>**

20 10. Buspirone is an anxiolytic psychotropic drug of the azapirone chemical class, and is  
21 primarily used to treat generalized anxiety disorder.

22 11. Cetirizine is second-generation antihistamine and is used in the treatment of hay fever,  
23 allergies, angioedema, and urticarial.

24 12. Cyanocobalamin is the most common and widely produced form of the chemical  
25 compounds that have vitamin B12 activity and is usually prescribed after surgical removal of part  
26 or all of the stomach or intestine to ensure adequate levels of vitamin B12 in the bloodstream.

27 \_\_\_\_\_  
28 <sup>1</sup> The term "dangerous drugs" is defined in Code section 4022.

1           13. Memantine is an orally active NMDA receptor antagonist and is indicated for the  
2 treatment of moderate to severe dementia of the Alzheimer's type.

3           14. Trazodone is an antidepressant of the serotonin antagonist and reuptake inhibitor class  
4 and is primarily used for the treatment of major depression.

5           15. Citalopram is an antidepressant drug of the selective serotonin reuptake inhibitor class  
6 and is used to treat major depression.

7           16. Lurasidone is an atypical antipsychotic and is also approved for the treatment of  
8 depressive episodes associated with bipolar I disorder in adults when used alone or in combination  
9 with lithium or valproate.

10          17. Metoprolol Tartrate is a beta-adrenergic blocking agent and is used to treat high blood  
11 pressure, long-term treatment of chest pain, and to reduce the risk of death because of heart  
12 problems in patients who have had a heart attack.

13          18. Benztropine is an anticholinergic and is used in the treatment of Parkinson's disease,  
14 Parkinsonism, and dystonia.

15          19. Cholecalciferol is a vitamin D3 and is used to treat or prevent many conditions caused  
16 by a lack of vitamin D, especially conditions of the skin or bones.

17          20. Simvastatin is a lipid lowering medication and is used along with exercise, diet, and  
18 weight loss to decrease elevated lipid levels and is also used to decrease the risk of heart problems  
19 in those at high risk.

20          21. Sertraline is an antidepressant in a group of drugs called selective serotonin reuptake  
21 inhibitors and is used to treat depression, obsessive-compulsive disorder, panic disorder, anxiety  
22 disorders, post-traumatic stress disorder, and premenstrual dysphoric disorder.

23          22. Methocarbamol is a muscle relaxant and is used together with rest and physical  
24 therapy to treat skeletal muscle conditions such as pain or injury.

25          23. Pantoprazole is in a class of drugs called proton pump inhibitors, which block the  
26 production of acid by the stomach, and is used for the treatment of gastroesophageal reflux  
27 disease, healing erosive esophagitis, and Zollinger-Ellison syndrome.

28

1 RELEVANT BACKGROUND FACTS

2 24. On or about August 14, 2014, Respondent was on duty as a pharmacy technician in  
3 the pharmacy at Patton State Hospital ("Hospital") in Patton, which is in San Bernardino County,  
4 California. She arrived at work and parked her vehicle near "Cottage K" at 8:16 and entered the  
5 Central Sally Port (gate) at 8:19.

6 25. In the afternoon of August 14, 2014, Respondent was assigned to restock medications  
7 in Units 20, 21, and 22, which are in "Building N." "Building N" is accessible by the West Sally  
8 Port. On the handwritten Equipment Usage Tracking Log, Respondent initially indicated in the  
9 "destination" column that at 14:15, she removed 3 bags of medication to restock Units 20, 21, and  
10 22. Prior to leaving for her medication restocking duties, Respondent allegedly went to the  
11 restroom and when she returned, the medication for Unit 22 was missing. Respondent did not  
12 inform anyone that the medication was missing. On the handwritten Equipment Usage Tracking  
13 Log, Respondent crossed-out "22" under the "destination" column. Respondent claimed that she  
14 crossed out "22" before she left for the Units because she knew she did not have the medication  
15 for Unit 22. Respondent also indicated in the Equipment Usage Tracking Log that she returned to  
16 the pharmacy at 17:30. Both the "17:30" and the scratched out "22" were in red pen while the  
17 other writing was in a different color pen.

18 26. Hospital Personal Duress Alarm System ("PDAS") records indicate that Respondent  
19 exited the Central Sally Port at 14:14. This is before the time that Respondent indicated in the  
20 handwritten Equipment Usage Tracking Log that she left the pharmacy. But instead of travelling  
21 toward the West Sally Port where Units 20-22 are located, she travelled toward "Cottage K,"  
22 where her vehicle was parked. Respondent reentered the West Sally Port at 14:31.

23 27. PDAS records also indicate that Respondent restocked the medications in Unit 20  
24 from 15:07 to 15:09 and restocked the medications in Unit 21 from 15:16 to 16:46. Between  
25 16:46 and 17:14, Respondent was inside "Building N." However Respondent did not restock the  
26 medications in Unit 22. Respondent exited the West Sally Port at 17:17 and reentered the Central  
27 Sally Port at 17:21. Respondent returned to the pharmacy at 17:26. She left the Hospital for the  
28 day at 17:40.

- 1 28. The medications in the bag that was intended for restocking in Unit 22 were:
- 2 • Buspirone 7.5 mg
  - 3 • Cetirizine 10 mg
  - 4 • Cyanocobalamin 1,000 mcg
  - 5 • Memantine 5 mg
  - 6 • Trazadone 25 mg
  - 7 • Citalopram 10 mg
  - 8 • Lurasidone 10 mg
  - 9 • Metoprolol tartrate 12.5 mg
  - 10 • Metoprolol tartrate 50 mg
  - 11 • Metoprolol tartrate 100 mg
  - 12 • Benztropine 0.25 mg
  - 13 • Cholecalciferol 1,000 IU
  - 14 • Simvastatin 10 mg

15 29. On November 6, 2014, a Hospital Special Investigator conducted a search of  
16 Respondent's vehicle and found the following items that belonged to the Hospital:

- 17 • 1 red locking bag marked "Patton State Hospital"
- 18 • 1 white pillowcase marked "Patton State Hospital"
- 19 • 5 gowns marked "Patton"
- 20 • 2 white laundry bags marked "Patton"
- 21 • 4 yellow Biohazard bags

22 30. Also, on November 6, 2014, the Hospital Special Investigator conducted a search of  
23 Respondent's residence. In a backpack in Respondent's bedroom, the Special Investigator  
24 discovered a large amount of packaged medication that belonged to the Hospital:

- 25 • Trazadone HCL 100 mg (46 tablets)
- 26 • Sertraline HCL 100 mg yellow (59 tablets)
- 27 • Sertraline HCL 50 mg blue (9 tablets)
- 28 • Methocarbamol 750 mg white (11 tablets)

- 1 • Citalopram 20 mg pink (10 tablets)
- 2 • Pantoprazole 40 mg yellow (23 tablets)
- 3 • Senna Laxative Senokot 8.6 mg (18 tablets)
- 4 • Beano white (11 tablets)

5 31. On or about March 19, 2015, a Board Inspector sent Respondent a letter requesting a  
6 statement from Respondent regarding the conduct described in Paragraphs 25 through 30.

7 Respondent did not respond to the Board Inspector's letter.

8 32. On or about April 14, 2015, the Board Inspector sent Respondent another letter  
9 requesting a statement from Respondent regarding the conduct described in Paragraphs 25 through

10 30. Respondent called the Board Inspector and indicated that she did not receive the first letter  
11 but did receive the second letter and would send the requested statement as soon as possible.

12 33. On or about May 11, 2015, the Board Inspector called Respondent and left her a  
13 voicemail asking for a return telephone call. Respondent did not return the Board Inspector's call  
14 and has not provided the Board Inspector with a written statement.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Conviction of a Substantially Related Crime)**

17 34. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision  
18 (I), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of  
19 unprofessional conduct, in that Respondent was convicted of a substantially related crime, as  
20 follows:

21 a. On or about October 29, 2015, after pleading guilty to one misdemeanor count of  
22 violating Penal Code section 487(a) [grand theft], in the criminal proceeding entitled *The People of*  
23 *the State of California v. Vickie Lynn Whitten* (Super. Ct. San Bernardino County, 2015, No.  
24 FSB1405158), the Court ordered pronouncement of judgment withheld and granted conditional  
25 and revocable release to Respondent. The Court sentenced Respondent to one day in jail, placed  
26 her on 36 months probation, ordered her to attend Narcotic Anonymous meetings two times per  
27 week for a total of 52 meetings, and imposed a fine.





1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 38. Respondent is subject to disciplinary action under Code section 4301 on the grounds  
4 of unprofessional conduct in that Respondent failed to follow Hospital policy because she failed to  
5 complete a Medication Variance Report when she realized that the medication for Unit 22 was  
6 missing. Respondent allegedly signed out medication for Units 20, 21, and 22 and then went to  
7 the restroom thereby leaving the medication bags unattended. When Respondent returned from  
8 the restroom, the medication bag for Unit 22 was missing. Respondent failed to notify anyone at  
9 the Hospital that the medication was missing. Complainant incorporates by reference Paragraphs  
10 24 through 28 as though fully set forth herein.

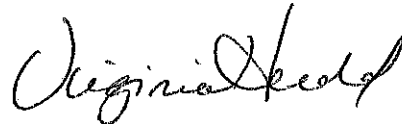
11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
13 and that following the hearing, the Board of Pharmacy issue a decision:

- 14 1. Revoking or suspending Pharmacy Technician Registration Number TCH 31180,  
15 issued to Vickie L. Whitten;
- 16 2. Ordering Vickie L. Whitten to pay the Board of Pharmacy the reasonable costs of the  
17 investigation and enforcement of this case, pursuant to Business and Professions Code section  
18 125.3; and
- 19 3. Taking such other and further action as deemed necessary and proper.

20  
21 DATED: \_\_\_\_\_

5/22/16



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

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