

1 KAMALA D. HARRIS
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 NICHOLAS TSUKAMAKI
Deputy Attorney General
4 State Bar No. 253959
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1188
6 Facsimile: (415) 703-5480
E-mail: Nicholas.Tsukamaki@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5583

12 **AMANDA MARIE ROME**
13 **4620 Knollpark Circle**
Antioch, CA 94531

ACCUSATION

14 **Pharmacy Technician Registration No. TCH**
15 **137190**

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 February 13, 2014, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 137190 to Amanda Marie Rome (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on May 31, 2017, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 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 4300.1 of the Code states:

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

14 **STATUTORY PROVISIONS**

15 6. Section 4060 of the Code states:

16 "No person shall possess any controlled substance, except that furnished to a person upon
17 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
18 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
19 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
20 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
21 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
22 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
23 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
24 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
25 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
26 labeled with the name and address of the supplier or producer.

27 . . ."

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1 7. Section 4301 of the Code provides, in relevant part:

2 “The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
4 Unprofessional conduct shall include, but is not limited to, any of the following:

5 ...

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

9 ...”

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

12 ...

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

17 ...”

18 8. Health and Safety Code section 11173, subdivision (a) provides that no person shall
19 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
20 administration of or prescription for controlled substances (1) by fraud, deceit, misrepresentation,
21 or subterfuge; or (2) by the concealment of a material fact.

22 **Controlled Substances and Dangerous Drugs**

23 9. Tramadol is a dangerous drug as designated by Business and Professions Code
24 section 4022.

25 10. Alprazolam is a Schedule IV controlled substance as designated by Health and Safety
26 Code section 11057, subdivision (d)(1) and a dangerous drug as designated by Business and
27 Professions Code section 4022.

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1 **COSTS**

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FACTUAL BACKGROUND**

9 12. Between October 2014 and June 2015, Respondent was employed as a pharmacy
10 technician at a CVS Pharmacy in Antioch, California. During that time period, Respondent
11 diverted at least 640 tablets of tramadol 50 mg and at least two (2) or three (3) tablets of
12 alprazolam 1 mg from the pharmacy. Respondent diverted those medications for her own
13 personal use.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Commission of an Act Involving Moral Turpitude, Dishonesty, Fraud, Deceit, and/or**
16 **Corruption)**

17 13. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
18 Code in that Respondent committed an act involving moral turpitude, dishonesty, fraud, deceit,
19 and/or corruption when she diverted tramadol 50 mg and alprazolam 1 mg tablets from the
20 pharmacy where she was employed. The circumstances of Respondent's conduct are set forth
21 above in paragraph 12.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Possession of a Controlled Substance Without a Prescription)**

24 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
25 and/or (o) and/or section 4060 of the Code in that Respondent possessed a controlled substance
26 without a prescription. The circumstances of Respondent's conduct are set forth above in
27 paragraph 12.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Obtaining Controlled Substance by Fraud, Deceit, or Subterfuge)**

3 15. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
4 and/or (o) of the Code, and/or Health and Safety Code section 11173, subdivision (a), in that
5 Respondent obtained or attempted to obtain a controlled substance by fraud, deceit,
6 misrepresentation, subterfuge, and/or concealment of a material fact. The circumstances of
7 Respondent's conduct are set forth above in paragraph 12.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

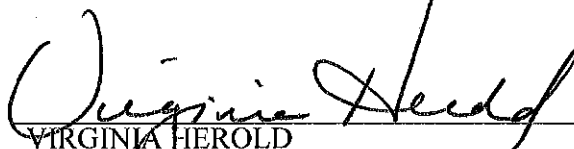
10 16. Respondent is subject to disciplinary action under section 4301 of the Code in that
11 Respondent engaged in unprofessional conduct. The circumstances of Respondent's conduct are
12 set forth above in paragraph 12.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician Registration Number TCH 137190
17 issued to Amanda Marie Rome;
- 18 2. Ordering Amanda Marie Rome to pay the Board of Pharmacy the reasonable costs of
19 the investigation and enforcement of this case pursuant to Business and Professions Code section
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 9/25/15


24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

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