

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5639

12 **LAUREN I. DRAKE**
13 954 West G St.
Oakdale, CA 95361

ACCUSATION

14 **Original Pharmacy Technician**
15 **Registration No. TCH 28979**

16 Respondent.

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 **Pharmacy Technician Registration**

22 2. On or about April 7, 1999, the Board issued Original Pharmacy Technician
23 Registration Number TCH 28979 to Lauren I. Drake (Respondent). The original pharmacy
24 technician registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 31, 2017, unless renewed.

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1 JURISDICTION

2 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

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

4 (b) The board shall discipline the holder of any license issued by the board,
5 whose default has been entered or whose case has been heard by the board and found
6 guilty, by any of the following methods:

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

8 (3) Suspending his or her right to practice for a period not exceeding one year.

9 (4) Revoking his or her license.

10 (5) Taking any other action in relation to disciplining him or her as the board in
11 its discretion may deem proper . . .

12 4. Code section 4300.1 states:

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

17 STATUTORY PROVISIONS

18 5. Code section 4301 states, in pertinent part:

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

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

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

26 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
27 abetting the violation of or conspiring to violate any provision or term of this chapter
28 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 . . .

1 6. Code section 4022 states:

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
3 self-use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
5 without prescription," "Rx only," or words of similar import.

6 (b) Any device that bears the statement: "Caution: federal law restricts this
7 device to sale by or on the order of a _____," "Rx only," or words of similar import,
8 the blank to be filled in with the designation of the practitioner licensed to use or
9 order use of the device.

10 (c) Any other drug or device that by federal or state law can be lawfully
11 dispensed only on prescription or furnished pursuant to Section 4006.

12 **COST RECOVERY**

13 7. Code section 125.3 provides, 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, with failure of the licentiate to comply subjecting the license to not being
17 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
18 included in a stipulated settlement.

19 **DRUG**

20 8. *Xanax*, a trade name for alprazolam, is a benzodiazepine, a central nervous system
21 depressant, and a Schedule IV controlled substance as designated by Health and Safety Code
22 section 11057(d)(1).

23 9. *Marijuana* is a Schedule I controlled substance as designated by Health and Safety
24 Code section 11054(d)(13), and is known to impair motor skills.

25 **FACTUAL BACKGROUND**

26 10. At the time of the events set forth herein, Respondent was employed as a pharmacy
27 technician at Sonora Regional Medical Center ("SRMC") in Sonora, California. On or about
28 January 29, 2015, while Respondent was on duty at SRMC as a pharmacy technician, one or more
of her colleagues observed that her speech was slow and slurred, her eyelids droopy, her pupils
were pinpoints, and her balance seemed unsteady. The incident was reported to SRMC

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1 management. The following day, Respondent was again observed by a colleague to have slow
2 speech and her eyes looked odd.

3 11. On or about February 4, 2015, SRMC management intercepted Respondent with a
4 drug test when she returned to work, concerned that Respondent would present to work impaired.
5 The drug test was positive for marijuana. When questioned, Respondent stated that on or about
6 February 3, 2015, she consumed marijuana, for which she did not have a recommendation.
7 Respondent also stated that she was taking Xanax and it made her "weird" at work.

8 12. On or about February 11, 2015, Respondent was terminated from SRMC.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Violation of State Laws Regulating Controlled Substances)**

11 13. Respondent is subject to disciplinary action pursuant to Code section 4301(j), on the
12 grounds of unprofessional conduct, in that Respondent violated statutes regulating controlled
13 substances and dangerous drugs. Specifically, on or about February 3, 2015, Respondent
14 unlawfully self-administered marijuana, a controlled substance, in violation of Health and Safety
15 Code Section 11170.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Use of Controlled Substances and/or Dangerous Drugs in a
18 Dangerous or Injurious Manner)**

19 14. Respondent is subject to disciplinary action pursuant to Code section 4301(h), in that
20 Respondent self-administered controlled substances and/or dangerous drugs to an extent or in a
21 manner as to be dangerous or injurious to herself or another, and/or to the extent that such use
22 impaired her ability to conduct with safety to the public the practice of a licensed pharmacy
23 technician as follows:

24 a. On or about January 29 through February 4, 2015, Respondent used Xanax, a
25 controlled substance, in a manner dangerous or injurious to herself and others, while working at
26 SRMC as a pharmacy technician, as set forth in paragraph 10-11, above.

27 b. On or about February 4, 2015, presented for work at SRMC as a pharmacy
28 technician; however, she tested positive for marijuana, as set forth in paragraph 11, above.

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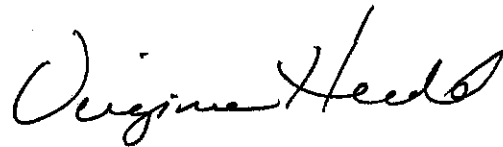
PRAYER

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 28979, issued to Lauren I. Drake;
2. Ordering Lauren I. Drake 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

4/15/16



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

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