

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 3304

CYNTHIA M. CRIST
1702 Ventura Street
Suisun, CA 94585

Pharmacy Technician License No. TCH 20695

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on January 28, 2010.

It is so ORDERED on December 29, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

RECEIVED BY CALIF.
BOARD OF PHARMACY
2009 OCT 30 PM 4:32

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3304

11 **CYNTHIA MARIE CRIST**
12 **1702 Ventura Street**
13 **Suisun, CA 94585**

OAH No. 2009070883

14 **Pharmacy Technician License No. TCH 20695**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
19 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
20 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

21
22 PARTIES

23 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
24 this action solely in her official capacity and is represented in this matter by Edmund G. Brown
25 Jr., Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

26 2. Cynthia Marie Crist (Respondent) is representing herself in this proceeding and has
27 chosen not to exercise her right to be represented by counsel.

28 ///

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 20695, issued to
3 Cynthia Marie Crist (Respondent), is revoked. However, the revocation is stayed and Respondent
4 is placed on probation for four (4) years on the following terms and conditions.

5 **1. Certification Prior to Resuming Work**

6 Respondent shall be automatically suspended from working as a pharmacy technician until
7 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
8 satisfactory proof of certification to the board. Respondent shall not resume working as a
9 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
10 year shall be considered a violation of probation. Respondent shall not resume working as a
11 pharmacy technician until notified by the board.

12 During suspension, respondent shall not enter any pharmacy area or any portion of any
13 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
14 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
15 devices or controlled substances are maintained. Respondent shall not do any act involving drug
16 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
17 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
18 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
19 substances. Respondent shall not resume work until notified by the board.

20 Subject to the above restrictions, respondent may continue to own or hold an interest in any
21 licensed premises by the board in which she holds an interest at the time this decision becomes
22 effective unless otherwise specified in this order.

23 Failure to comply with this suspension shall be considered a violation of probation.

24 **2. Obey All Laws**

25 Respondent shall obey all state and federal laws and regulations.

26 Respondent shall report any of the following occurrences to the board, in writing, within
27 seventy-two (72) hours of such occurrence:

28 ///

- 1 an arrest or issuance of a criminal complaint for violation of any provision of the
2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
3 substances laws
- 4 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
5 criminal complaint, information or indictment
- 6 a conviction of any crime
- 7 discipline, citation, or other administrative action filed by any state or federal agency
8 which involves respondent's pharmacy technician license or which is related to the
9 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
10 or charging for any drug, device or controlled substance.

11 Failure to timely report any such occurrence shall be considered a violation of probation.

12 3. **Report to the Board**

13 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
14 designee. The report shall be made either in person or in writing, as directed. Among other
15 requirements, respondent shall state in each report under penalty of perjury whether there has
16 been compliance with all the terms and conditions of probation. Failure to submit timely reports
17 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
18 in submission of reports as directed may be added to the total period of probation. Moreover, if
19 the final probation report is not made as directed, probation shall be automatically extended until
20 such time as the final report is made and accepted by the board.

21 4. **Interview with the Board**

22 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
23 with the board or its designee, at such intervals and locations as are determined by the board or its
24 designee. Failure to appear for any scheduled interview without prior notification to board staff,
25 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
26 the period of probation, shall be considered a violation of probation.

27 5. **Cooperate with Board Staff**

28 Respondent shall cooperate with the board's inspection program and with the board's
monitoring and investigation of respondent's compliance with the terms and conditions of her
probation. Failure to cooperate shall be considered a violation of probation.

1 **6. Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case number 3304 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause her direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 3304 and the terms and conditions
10 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
11 supervisor(s) submit timely acknowledgement(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
14 of the terms and conditions of the decision in case number 3304 in advance of the respondent
15 commencing work at each pharmacy. A record of this notification must be provided to the board
16 upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause her direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that she has read the decision in case number 3304
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23 Failure to timely notify present or prospective employer(s) or to cause such employer(s) to
24 submit timely acknowledgements to the board shall be considered a violation of probation.

25 "Employment" within the meaning of this provision shall include any full-time,
26 part-time, temporary or relief service or pharmacy management service as a pharmacy
27 technician or in any position for which a pharmacy technician license is a requirement
28 or criterion for employment, whether the respondent is considered an employee,
independent contractor or volunteer.

1 **7. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

2 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
3 attendance at a recognized and established substance abuse recovery support group in California,
4 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
5 or its designee. Respondent must attend at least one meeting per week unless otherwise directed
6 by the board or its designee. Respondent shall continue regular attendance and submit signed and
7 dated documentation confirming attendance with each quarterly report for the period of probation.
8 Failure to attend or submit documentation thereof shall be considered a violation of probation.

9 **8. Random Drug Screening**

10 Respondent, at her own expense, shall participate in random testing, including but not
11 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
12 screening program as directed by the board or its designee. Respondent may be required to
13 participate in testing for the entire probation period and the frequency of testing will be
14 determined by the board or its designee. At all times respondent shall fully cooperate with the
15 board or its designee, and shall, when directed, submit to such tests and samples for the detection
16 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
17 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
18 of probation. Upon request of the board or its designee, respondent shall provide documentation
19 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
20 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
21 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
22 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
23 shall be considered a violation of probation and shall result in the automatic suspension of work
24 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
25 board in writing.

26 During any such suspension, respondent shall not enter any pharmacy area or any portion of
27 or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any
28 other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs

1 and devices or controlled substances are maintained. Respondent shall not do any act involving
2 drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall
3 respondent manage, administer, or assist any licensee of the board. Respondent shall not have
4 access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or
5 controlled substances. Respondent shall not resume work until notified by the board.

6 During any such suspension, respondent shall not direct, control or perform any aspect of
7 the practice of pharmacy. Subject to the above restrictions, respondent may continue to own or
8 hold an interest in any licensed premises in which she holds an interest at the time this decision
9 becomes effective unless otherwise specified in this order.

10 Failure to comply with this suspension shall be considered a violation of probation.

11 **9. Work Site Monitor**

12 Within ten (10) days of the effective date of this decision, respondent shall identify a work
13 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
14 during working hours. Respondent shall be responsible for ensuring that the work site monitor
15 reports in writing to the board quarterly. Should the designated work site monitor determine at
16 any time during the probationary period that respondent has not maintained sobriety, she shall
17 notify the board immediately, either orally or in writing as directed. Should respondent change
18 employment, a new work site monitor must be designated, for prior approval by the board, within
19 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
20 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
21 considered a violation of probation.

22 **10. Notification of Departure**

23 Prior to leaving the probationary geographic area designated by the board or its designee for
24 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
25 writing of the dates of departure and return. Failure to comply with this provision shall be
26 considered a violation of probation.

27 **11. Abstain from Drugs and Alcohol Use**

28 Respondent shall completely abstain from the possession or use of alcohol, controlled

1 substances, dangerous drugs and their associated paraphernalia except when the drugs are
2 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
3 request of the board or its designee, respondent shall provide documentation from the licensed
4 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
5 treatment of the respondent. Failure to timely provide such documentation shall be considered a
6 violation of probation. Respondent shall ensure that she is not in the same physical location as
7 individuals who are using illicit substances even if respondent is not personally ingesting the
8 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
9 not supported by the documentation timely provided, and/or any physical proximity to persons
10 using illicit substances, shall be considered a violation of probation.

11 **12. Reimbursement of Board Costs**

12 As a condition precedent to successful completion of probation, respondent shall pay to the
13 board its costs of investigation and prosecution in the amount of \$1,900.00, payable in full within
14 the first two (2) years of probation in equal quarterly installments of \$237.50. There shall be no
15 deviation from this schedule absent prior written approval by the board or its designee. Failure to
16 pay costs by the deadline(s) as directed shall be considered a violation of probation.

17 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
18 reimburse the board its costs of investigation and prosecution.

19 **13. Probation Monitoring Costs**

20 Respondent shall pay any costs associated with probation monitoring as determined by the
21 board each and every year of probation. Such costs shall be payable to the board on a schedule as
22 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
23 be considered a violation of probation.

24 **14. Status of License**

25 Respondent shall, at all times while on probation, maintain an active, current pharmacy
26 technician license with the board, including any period during which suspension or probation is
27 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

28 ///

1 If respondent's pharmacy technician license expires or is cancelled by operation of law or
2 otherwise at any time during the period of probation, including any extensions thereof due to
3 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
4 terms and conditions of this probation not previously satisfied.

5 **15. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should respondent cease work due to
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
8 respondent may tender her pharmacy technician license to the board for surrender. The board or
9 its designee shall have the discretion whether to grant the request for surrender or take any other
10 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
11 license, respondent will no longer be subject to the terms and conditions of probation. This
12 surrender constitutes a record of discipline and shall become a part of the respondent's license
13 history with the board.

14 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
15 license to the board within ten (10) days of notification by the board that surrender is accepted.
16 Respondent may not reapply for any license, permit, or registration from the board for three (3)
17 years from the effective date of the surrender. Respondent shall meet all requirements applicable
18 to the license sought as of the date the application for that license is submitted to the board.

19 **16. Notification of a Change in Name, Residence Address, Mailing Address or**
20 **Employment**

21 Respondent shall notify the board in writing within ten (10) days of any change of
22 employment. Said notification shall include the reasons for leaving, the address of the new
23 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
24 shall further notify the board in writing within ten (10) days of a change in name, residence
25 address and mailing address, or phone number.

26 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
27 phone number(s) shall be considered a violation of probation.

28 ///

1 **17. Tolling of Probation**

2 Except during periods of suspension, respondent shall, at all times while on probation, be
3 employed as a pharmacy technician in California for a minimum of forty (40) hours per calendar
4 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,
5 the period of probation shall be extended by one month for each month during which this
6 minimum is not met. During any such period of tolling of probation, respondent must
7 nonetheless comply with all terms and conditions of probation.

8 Should respondent, regardless of residency, for any reason (including vacation) cease
9 working as a pharmacy technician for a minimum of forty (40) hours per calendar month in
10 California, respondent must notify the board in writing within ten (10) days of cessation of work
11 and must further notify the board in writing within ten (10) days of the resumption of the work.
12 Any failure to provide such notification(s) shall be considered a violation of probation.

13 It is a violation of probation for respondent's probation to remain tolled pursuant to the
14 provisions of this condition for a total period, counting consecutive and non-consecutive months,
15 exceeding thirty-six (36) months.

16 "Cessation of work" means calendar month during which respondent is not
17 working for at least forty (40) hours as a pharmacy technician, as defined in Business
18 and Professions Code section 4115. "Resumption of work" means any calendar
19 month during which respondent is working as a pharmacy technician for at least forty
20 (40) hours as a pharmacy technician as defined by Business and Professions Code
21 section 4115.

22 **18. Violation of Probation**

23 If a respondent has not complied with any term or condition of probation, the board shall
24 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
25 all terms and conditions have been satisfied or the board has taken other action as deemed
26 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
27 to impose the penalty that was stayed.

28 If respondent violates probation in any respect, the board, after giving respondent notice
and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
was stayed. Notice and opportunity to be heard are not required for those provisions stating that a

1 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
2 a petition to revoke probation or an accusation is filed against respondent during probation, the
3 board shall have continuing jurisdiction, and the period of probation shall be automatically
4 extended until the petition to revoke probation or accusation is heard and decided.

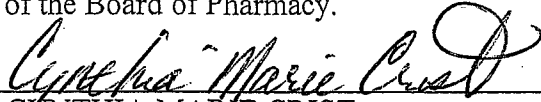
5 **19. Completion of Probation**

6 Upon written notice by the board indicating successful completion of probation,
7 respondent's pharmacy technician license will be fully restored.

8
9 ACCEPTANCE

10 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
11 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
12 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
13 to be bound by the Decision and Order of the Board of Pharmacy.

14 DATED: 10-22-09


15 CYNTHIA MARIE CRIST
16 Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

20 Dated: 10/28/09

21 Respectfully Submitted,

22 EDMUND G. BROWN JR.
23 Attorney General of California
24 FRANK H. PACOE
25 Supervising Deputy Attorney General

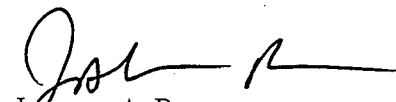

26 JOSHUA A. ROOM
27 Deputy Attorney General
28 Attorneys for Complainant

Exhibit A

Accusation No. 3304

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-1299
Facsimile: (415) 703-5480

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3304

11 CYNTHIA MARIE CRIST
12 1702 Ventura Street
13 Suisun, CA 94585

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 20695

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about November 7, 1996, the Board of Pharmacy issued Pharmacy
22 Technician License Number TCH 20695 to Cynthia Marie Crist (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on December 31, 2010, unless renewed.

25 JURISDICTION

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

1 8. Section 4060 of the Code provides, in pertinent part, that no person shall
2 possess any controlled substance, except that furnished upon a valid prescription/drug order.

3 9. Health and Safety Code section 11170 provides that no person shall
4 prescribe, administer, or furnish a controlled substance for himself or herself.

5 10. Health and Safety Code section 11364, in pertinent part, makes it unlawful
6 to possess an opium pipe or other paraphernalia used to inject or smoke controlled substances.

7 11. Health and Safety Code section 11377, in pertinent part, makes it unlawful
8 to possess any controlled substance in Schedule II, subdivision (d), without a prescription.

9 12. Health and Safety Code section 11550, in pertinent part, makes it unlawful
10 for any person to use or be under the influence of any controlled substance in Schedule II (Health
11 and Safety Code section 11055), subdivision (d)(1) or (d)(2), or any narcotic drug in Schedules
12 III-V, except when administered by or under the direction of an authorized licensee.

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

16 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17 14. Section 4021 of the Code states:

18 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing
19 with Section 11053) of Division 10 of the Health and Safety Code.”

20 15. Section 4022 of the Code states, in pertinent part:

21 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
22 self-use, except veterinary drugs that are labeled as such, and includes the following:

23 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
24 without prescription,’ ‘Rx only,’ or words of similar import.

25 ...

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

28 ///

1 FOURTH CAUSE FOR DISCIPLINE

2 (Self-Administration/Use of Controlled Substance)

3 21. Respondent is subject to discipline under section 4301(j) and/or (o) of the
4 Code, and/or Health and Safety Code section(s) 11170 and/or 11550, in that Respondent, as
5 described in paragraph 17 above, self-administered/used, conspired to self-administer/use, and/or
6 assisted in/abetted self-administration/use of a controlled substance, without prescription.

7 FIFTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct)

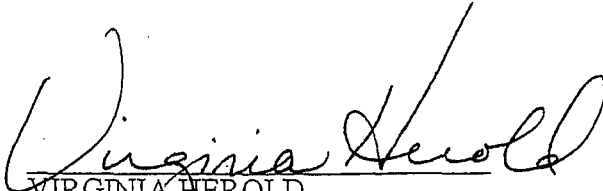
9 22. Respondent is subject to discipline under section 4301 of the Code in that
10 Respondent, as described in paragraphs 17-21 above, engaged in unprofessional conduct.

11
12 PRAYER

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

- 15 A. Revoking or suspending Pharmacy Technician License Number TCH
16 20695, issued to Cynthia Marie Crist (Respondent);
- 17 B. Ordering Respondent to pay the Board reasonable costs of investigation
18 and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 19 C. Taking such other and further action as is deemed necessary and proper.

20
21 DATED: 5/14/09

22
23 
24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant