

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

In the Matter of the Accusation Against:

Case No. 4621

MATTHEW R. WASHBURN
1125 E. 19th Street
Marysville, CA 95901

**Pharmacy Technician Registration No.
TCH 25205**

Respondent.

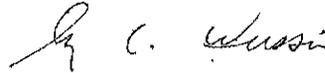
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Surrender and 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, 2015.

It is so ORDERED on January 21, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 ELENA L. ALMANZO
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **MATTHEW R. WASHBURN**
14 **1125 E. 19th Street**
Marysville, CA 95901

15 **Pharmacy Technician Registration No.**
16 **25205**

17 Respondent.

Case No. 4621

OAH No. 2014040409

18 **STIPULATED SURRENDER OF**
19 **LICENSE AND ORDER**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
entitled proceedings that the following matters are true:

21 PARTIES

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Kamala
24 D. Harris, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney
25 General.

26 2. Matthew R. Washburn (Respondent) is representing himself in this proceeding and
27 has chosen not to exercise his right to be represented by counsel.
28

1 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
2 Respondent's license history with the Board of Pharmacy.

3 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in
4 California as of the effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
8 the Board shall treat it as a new application for licensure. Respondent must comply with all the
9 laws, regulations and procedures for licensure in effect at the time the application or petition is
10 filed, and all of the charges and allegations contained in Accusation No. 4621 shall be deemed to
11 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
12 the application.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$7,004.50 prior to issuance of a new license.

15 6. If Respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in Accusation, No. 4621 shall be deemed
18 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
19 other proceeding seeking to deny or restrict licensure.

20 ACCEPTANCE

21 I have carefully read the Stipulated Surrender of License and Order. I understand the
22 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
23 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
24 be bound by the Decision and Order of the Board of Pharmacy.

25
26
27 DATED: 12-9-14


28 MATTHEW R. WASHBURN
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 12/9/14

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General


ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4621

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12 **MATTHEW R. WASHBURN**
1125 E. 19th Street
13 Marysville, CA 95901

A C C U S A T I O N

14 **Pharmacy Technician Registration No.**
15 **25205**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 6, 1998, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number 25205 to Matthew R. Washburn (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on August 31, 2015, unless renewed.

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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.

4. Section 4300 of the Code states:

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

5. Section 4301 of the Code states in pertinent part:

"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.

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

"(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.

"(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.

6. Section 4060 of the Code states:

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

"Nothing in this section authorizes a certified nurse-midwife, a nurse

1 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
2 stock of dangerous drugs and devices."

3 7. Health and Safety Code section 11170 provides:

4 No person shall prescribe, administer, or furnish a controlled substance for himself.

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

9 9. "Vicodin" and "Norco" are brand names for a compound of hydrocodone and
10 acetaminophen and are Schedule III controlled substances as designated by Health and Safety
11 Code section 11056, subdivision (e)(4).

12 **BACKGROUND**

13 10. On or about October 28, 2011, a loss prevention employee at CVS Pharmacy
14 located at 1274 Stabler Lane in Yuba City found a hidden bottle of 500 Count Hydrocodone/
15 APAP 10/325 which was full. Later that day the contents were emptied. Video from the store
16 surveillance cameras showed that respondent emptied the bottle and removed the contents from
17 the store. Respondent was later interviewed by a CVS loss prevention officer and respondent
18 admitted to taking approximately ten bottles from the pharmacy area for personal use.

19 The Board of Pharmacy's Inspector performed an Audit of CVS' pharmacy records for the
20 period of May 1, 2011 and November 1, 2011 which showed a loss of 6,858 tablets of
21 Hydrocodone containing schedule III controlled substance medications, which is consistent with
22 the loss admitted to by the respondent.

23 **FIRST CAUSE FOR DISCIPLINE** 24 **(Unprofessional Conduct/Dishonest conduct)**

25 11. Respondent is subject to disciplinary action under Business and Professions Code
26 section 4301 subd. (f) for unprofessional conduct in that between May of 2011 to November of
27

1 2011, respondent stole approximately 6,500 tablets of hydrocodone-containing schedule III
2 controlled substance medications from CVS Pharmacy while on duty as a pharmacy technician,
3 as more specifically set forth above in paragraph 8.

4 **SECOND CAUSE FOR DISCIPLINE**
5 **(Unprofessional Conduct/Violation of Pharmacy Laws)**

6 12. Respondent is subject to disciplinary action under Business and Professions Code
7 section 4301 subds. (j) and (o) in conjunction with Business and Professions Code Section 4060
8 for unprofessional conduct in that he possessed hydrocodone-containing schedule III controlled
9 substance medications without a prescription therefor, as set forth more specifically above in
10 paragraph 8.

11 **THIRD CAUSE FOR DISCIPLINE**
12 **(Unprofessional Conduct/Self Administration)**

13 13. Respondent is subject to disciplinary action under Business and Professions Code
14 section 4301 subds. (h) in conjunction with Health and Safety Code section 11170, in that he self-
15 administered hydrocodone-containing schedule III controlled substance medications.

16 **PRAYER**

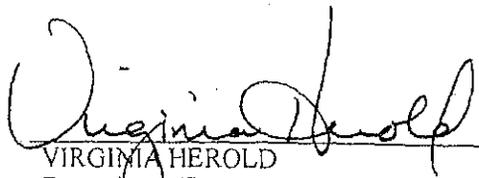
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18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Pharmacy issue a decision:

- 20 1. Revoking or suspending Pharmacy Technician Registration Number 25205, issued to
21 Matthew R. Washburn.;
- 22 2. Ordering Matthew R. Washburn to pay the Board of Pharmacy the reasonable costs of
23 the investigation and enforcement of this case, pursuant to Business and Professions Code section
24 125.3;
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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/21/13



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

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