

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

In the Matter of the Accusation Against:

Case No. 4762

OAH No. 2014030638

**FROZAN SEDDIQI**

4604 Victoria Ave.  
Fremont, CA 94538

Pharmacy Technician Registration No.  
TCH 17509

Respondent.

**DECISION AND ORDER**

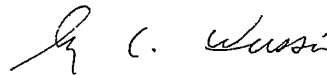
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on August 22, 2014.

It is so ORDERED on July 23, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



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STAN C. WEISSER  
Board President

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FROZAN SEDDIQI,

Pharmacy Technician Registration  
No. TCH 17509

Respondent.

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**PROPOSED DECISION**

Administrative Law Judge Jill Schlichtmann, State of California, Office of Administrative Hearings, heard this matter on June 5, 2014, in Oakland, California.

Deputy Attorney General Nicholas Tsukamaki represented complainant Virginia Herold, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

Edgardo Gonzalez, Attorney at Law, represented Frozan Seddiqi, who was present throughout the administrative hearing.

The matter was submitted for decision on June 5, 2014.

**FACTUAL FINDINGS**

1. Complainant, Virginia Herold, made the accusation in her official capacity as Executive Officer of the Board of Pharmacy (board).

2. On October 26, 1995, the board issued Pharmacy Technician Registration No. TCH 17509 to Frozan Seddiqi (respondent). The registration is scheduled to expire on February 28, 2015.

### *Cause for Discipline*

3. Between 2002 and 2010, respondent was registered as an In-Home Support Services (IHSS) provider for her mother, IHSS recipient A.S.<sup>1</sup>

4. On numerous occasions between December 2002 and February 2010, A.S. traveled outside of the United States. Respondent signed and submitted IHSS timesheets indicating that she had cared for A.S. on days that A.S. was outside of the United States. The State Controller's Office issued pay warrants to respondent based on the hours documented on those timesheets. Respondent cashed the pay warrants. The state paid respondent \$23,907.47 for approximately 2,416 hours of work that she did not perform.

5. On or about March 27, 2012, in the Superior Court of California, County of Alameda, based on the conduct described above, respondent was convicted on her plea of nolo contendere of violating Penal Code section 487, subdivision (a) (grand theft of personal property), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for a period of three years, with conditions that included serving six days in jail, paying \$23,906.47 in restitution, paying a fine in the amount of \$233, and being disqualified as an IHSS provider for 10 years.

6. William Young, a supervising inspector with the board, testified at hearing. Young has been a registered pharmacist in California since 1994. He has been employed by the board for three years and has been involved in over 100 investigations. Young is very familiar with the work of pharmacy technicians. The duties of a pharmacy technician include customer service, entering data into the computer, preparing and retrieving prescription medications, and working at the cash register. Pharmacy technicians must be trustworthy and have integrity because they have access to sensitive personal information of customers, and controlled substances stored in the pharmacy.

In Young's opinion, respondent's decision to steal from the government constituted a breach of trust that is inconsistent with the qualifications of a pharmacy technician. Moreover, respondent's conduct did not occur in a single lapse of judgment, but repeatedly over an eight-year period.

### *Costs of Enforcement*

7. The board has incurred \$3,325 in costs enforcing the accusation. In a declaration dated June 4, 2014, the Deputy Attorney General assigned to this case described the general tasks performed, the time spent on each task and the method of calculating the costs as set forth in an attached itemized billing statement. The amount of the costs is reasonable.

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<sup>1</sup> Initials are used to protect A.S.'s privacy.

### *Respondent's Evidence*

8. Respondent admits that she submitted timesheets for the care of her mother while her mother was away and she was not providing care. From 2002 to 2010, respondent's mother traveled outside of the country on 13 occasions, during which time, respondent continued to submit reimbursement requests to IHSS, claiming that she was providing care for her mother. Respondent has served the county jail time, and paid in full restitution in the amount of \$23,906.47, and fines of \$233. Respondent will be on probation until March 2015; she has complied with the terms of her probation.

9. Respondent apologizes for her poor judgment. She committed the theft because her mother did not have enough money to support herself, and respondent used the IHSS funds to help pay her mother's rent and other expenses. Her mother was able to travel outside of the country for free because respondent's brother works for United Airlines. The theft was discovered when an IHSS worker came to meet with respondent's mother and discovered that she was outside of the country. Respondent's mother now lives in housing supported by the housing authority, so they are better able to manage her mother's living expenses.

10. Respondent has been married for 14 years and has two children, ages 11 and 13. Respondent attended Ohlone College in Fremont, California, then studied to become a pharmacy technician at Silicon Valley College. She graduated from the pharmacy technician program in 1994, and was licensed in 1995. Respondent worked at CVS Pharmacy and for a pharmaceutical company after graduating. In 1997, respondent accepted a position at Alger Health Service, an inpatient pharmacy, where she prepared and dispensed medications. In 1998, she moved to Sunscript Pharmacy, where she had similar duties.

11. Since 2001, respondent has worked at a Safeway pharmacy. Respondent's duties at Safeway include acting as a pharmacy cashier, providing customer service, typing and filling prescriptions, counting and pulling medications, cleaning the pharmacy area, returning to stock prescriptions that have not been picked up, returning stock to the vendor, and completing paperwork. Respondent is supervised by the Pharmacy Manager and other staff pharmacists.

12. Respondent has not been disciplined at work, and has not received any complaints regarding her honesty and integrity. On August 3, 2012, respondent received a certificate of recognition from Safeway in recognition of her excellent service. Respondent provided a letter from the Pharmacy Manager commending her diligent, industrious and trustworthy work habits. There is no mention of respondent's conviction in the letter.

13. Respondent's husband, Jawaid Ghulam, testified at hearing. Ghulam works in the information technology industry. He is aware of respondent's conviction. Ghulam was unaware that respondent was receiving payments to care for her mother while her mother was away. Respondent's conduct surprised Ghulam because in his experience respondent is an honest woman, and a great wife and mother. Ghulam has discussed her misconduct with

respondent on many occasions, and he believes that she is truly sorry for her behavior. After respondent was convicted, the family paid the restitution by taking money from their children's college funds.

14. Respondent provided a letter from Mohammad Yahya Askarzada, the CEO of the Ibrahim Khalilullah Islamic Center. He reports that respondent has volunteered her time at the mosque every week in different areas, including fundraising, event organization and paperwork. Askarzada is very appreciative of respondent's efforts. Askarzada does not refer to respondent's conviction in his letter.

15. Respondent presented seven certificates documenting that she has completed continuing education courses.

### LEGAL CONCLUSIONS

1. Business and Professions Code sections 4300 and 4301, subdivision (f), authorize the suspension or revocation of a license<sup>2</sup> for unprofessional conduct which includes the commission of any act involving moral turpitude, dishonesty, fraud or deceit, whether the act is committed in the course of relations as a licensee or otherwise. Cause for license discipline pursuant to Business and Professions Code sections 4300 and 4301, subdivision (f), exists as set forth in Factual Findings 3 through 6.

2. Business and Professions Code sections 4300 and 4301, subdivision (g), authorize the suspension or revocation of a license where the licensee has knowingly made or signed any certificate of other document that falsely represents the existence or nonexistence of a state of facts. Cause for license discipline pursuant to Business and Professions Code sections 4300 and 4301, subdivision (g), exists as set forth in Factual Findings 3 through 6.

3. Business and Professions Code sections 490, 4300, and 4301, subdivision (l), authorize the suspension or revocation of a license if the licensee has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed business or profession. California Code of Regulations, title 16, section 1770 provides that a crime shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant, if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety or welfare. By reason of the matters set forth in Factual Findings 3 through 6, respondent's conviction constitutes cause for discipline pursuant to Business and Professions Code sections 490, 4300, 4301, subdivision (l).

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<sup>2</sup> Under Business and Professions Code section 477, "license" includes certificate, registration or other means to engage in a business or profession regulated by this code.

4. Respondent regrets her misconduct and has tried to make amends by admitting her misconduct and paying restitution. (Factual Findings 8 and 9.) Respondent has the support of her husband, a history of volunteer work and a stable employment record. (Factual Findings 10 through 14.) However, respondent remains on probation for almost one more year. Moreover, the letter from her supervisor did not reference respondent's conviction; it was not established that she has been forthright with her employer concerning her misconduct. Pharmacy technicians are required to demonstrate integrity and honesty, and have access to sensitive personal information and controlled substances. At this time, protection of the public warrants revocation of respondent's license.

5. Complainant has requested that respondent be ordered to pay the board the costs of investigating and enforcing this case. Business and Professions Code section 125.3 provides that respondent may be ordered to pay the board "a sum not to exceed the reasonable costs of the investigation and enforcement of the case." The actual costs of investigation and enforcement in this matter are \$3,325, and are reasonable. (Factual Finding 7.)

The case of *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 sets forth the factors to be considered in determining the reasonableness of costs. Those factors include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. The only factor that might militate in respondent's favor is her financial ability to pay a cost recovery award. However, the board does not require an individual whose license has been revoked to reimburse it for costs unless the license is reinstated in the future. At that time, the board may allow payment in installments. Consequently, the actual costs of \$3,325 will be ordered upon reinstatement.

#### ORDER

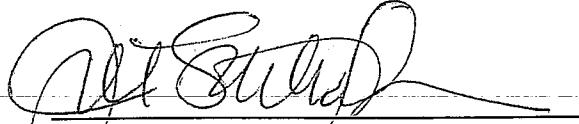
1. Pharmacy technician license number TCH 17509, issued to respondent Frozan Seddiqi is revoked. Respondent shall relinquish her technician license to the board within 10 days of the effective date of this decision. Respondent may not reapply or petition the board for reinstatement of her revoked technician license for two years from the effective date of this decision.

2. A condition of reinstatement shall be that the respondent is certified as defined in Business and Professions Code section 4202, subdivision (a)(4), and provides satisfactory proof of certification to the board.

3. As a condition precedent to reinstatement of her revoked technician license respondent shall reimburse the Board for its costs of investigation and prosecution in the amount of \$3,325. Said amount shall be paid in full prior to the reapplication or reinstatement of her technician license, unless otherwise ordered by the board.

DATED:

6/12/14



JILL SCHLICHTMANN  
Administrative Law Judge  
Office of Administrative Hearings

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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. 4762

12 **FROZAN SEDDIQI**  
13 **4604 Victoria Avenue**  
**Fremont, CA 94538**

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

14 **Pharmacy Technician Registration No. TCH**  
15 **17509**

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 (Board), Department of Consumer Affairs.

22 2. On or about October 26, 1995, the Board issued Pharmacy Technician Registration  
23 Number TCH 17509 to Frozan Seddiqi (Respondent). The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 February 28, 2015, unless renewed.

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JURISDICTION

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

4. Section 4300 of the Code states:

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

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

“(1) Suspending judgment.

“(2) Placing him or her upon probation.

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

“(4) Revoking his or her license.

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

...

“(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.”

5. Section 4300.1 of the Code states:

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

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1 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
2 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
3 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
4 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
5 indictment.

6  
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 COSTS

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 FACTUAL BACKGROUND

20 10. Between 2002 and 2010, Respondent was registered as an In-Home Support Services  
21 (IHSS) provider for her mother, IHSS recipient A.S.<sup>1</sup>

22 11. On numerous occasions between December 2002 and February 2010, A.S. traveled  
23 outside of the United States.

24 12. On several occasions, Respondent signed and submitted IHSS timesheets indicating  
25 that she had cared for A.S. on days that A.S. was outside of the United States. The State  
26 Controller's Office issued pay warrants to Respondent based on the hours documented on those

27 <sup>1</sup> Initials are used herein to protect A.S.'s privacy. A.S.'s identity will be provided  
28 pursuant to a proper discovery request.

1 timesheets. Respondent cashed the pay warrants. The state paid Respondent \$23,906.47 for  
2 approximately 2,416 hours of work that she did not perform.

3 13. On or about March 27, 2012, in a criminal proceeding entitled *People v. Frozan*  
4 *Seddiqi*, in Alameda County Superior Court, Case No. 576766, based on the conduct described in  
5 paragraphs 10 and 11, above, Respondent was convicted on her plea of nolo contendere of  
6 violating Penal Code section 487, subdivision (a) (grand theft of personal property), a  
7 misdemeanor. Imposition of sentence was suspended and Respondent was ordered to serve 36  
8 months probation, pay \$23,906.47 in restitution, pay a fine in the amount of \$233, and she was  
9 disqualified as an IHSS provider for ten (10) years.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Commission of Act Involving Moral Turpitude, Dishonesty, and**  
12 **Fraud)**

13 14. Respondent is subject to disciplinary action under sections 4300 and 4301,  
14 subdivision (f) of the Code in that Respondent committed acts involving moral turpitude,  
15 dishonesty, fraud, and/or deceit. The circumstances of Respondent's conduct are set forth above  
16 in paragraphs 10-12.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct – Knowingly Signing Documents that Falsely Represent the**  
19 **Existence of a State of Facts)**

20 15. Respondent is subject to disciplinary action under sections 4300 and 4301,  
21 subdivision (g) of the Code in that Respondent knowingly signed documents that falsely  
22 represented the existence of a state of facts. The circumstances of Respondent's conduct are set  
23 forth above in paragraphs 10-12.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct – Conviction of a Crime Substantially Related to the**  
26 **Qualifications, Functions, and Duties of a Pharmacy Technician)**

27 16. Respondent is subject to disciplinary action under sections 490, 4300, and 4301,  
28 subdivision (l) of the Code, and California Code of Regulations, title 16, section 1770, in that

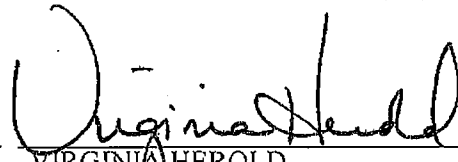
1 Respondent was convicted of a crime substantially related to the qualifications, functions, and  
2 duties of a pharmacy technician. The circumstances of Respondent's conviction are set forth  
3 above in paragraphs 10-13.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Technician Registration Number TCH 17509  
8 issued to Frozan Seddiqi;  
9 2. Ordering Frozan Seddiqi to pay the Board of Pharmacy the reasonable costs of the  
10 investigation and enforcement of this case pursuant to Business and Professions Code section  
11 125.3;  
12 3. Taking such other and further action as deemed necessary and proper.

13  
14 DATED: 2/19/14

  
15 VIRGINIA HEROLD  
16 Executive Officer  
17 Board of Pharmacy  
18 Department of Consumer Affairs  
19 State of California  
20 Complainant

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