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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. 2823

11 LEILA NOEL HENRY
11113 Moorpark St., #206
12 North Hollywood, CA 91602

OAH No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

13 Pharmacy Technician Registration No. TCH
14 22978

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

20 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
21 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
22 by Bill Lockyer, Attorney General of the State of California, by Kimberlee D. King, Deputy
23 Attorney General.

24 2. LEILA NOEL HENRY (Respondent) is representing herself in this
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about June 27, 1997, the Board of Pharmacy issued Pharmacy
27 Technician Registration No. TCH 22978 to LEILA NOEL HENRY (Respondent). The
28 Registration was in full force and effect at all times relevant to the charges brought in Accusation

1 No. 2823 and will expire on June 30, 2005, unless renewed.

2 JURISDICTION

3 4. Accusation No. 2823 was filed before the Board of Pharmacy, and is
4 currently pending against Respondent. The Accusation and all other statutorily required
5 documents were properly served on Respondent on March 3, 2005. Respondent timely filed her
6 Notice of Defense contesting the Accusation. A copy of Accusation No. 2823 is attached as
7 exhibit A and incorporated herein by reference.

8 ADVISEMENT AND WAIVERS

9 5. Respondent has carefully read, and understands the charges and allegations
10 in Accusation No. 2823. Respondent also has carefully read, and understands the effects of this
11 Stipulated Surrender of License and Order.

12 6. Respondent is fully aware of her legal rights in this matter, including the
13 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
14 counsel, at her own expense; the right to confront and cross-examine the witnesses against her;
15 the right to present evidence and to testify on her own behalf; the right to the issuance of
16 subpoenas to compel the attendance of witnesses and the production of documents; the right to
17 reconsideration and court review of an adverse decision; and all other rights accorded by the
18 California Administrative Procedure Act and other applicable laws.

19 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
20 each and every right set forth above.

21 CULPABILITY

22 8. Respondent admits the truth of each and every charge and allegation in
23 Accusation No. 2823, agrees that cause exists for discipline and hereby surrenders her Pharmacy
24 Technician Registration No. TCH 22978 for the Board's formal acceptance.

25 9. Respondent understands that by signing this stipulation she enables the
26 Board's order accepting the surrender of her Pharmacy Technician Registration to be issued and
27 entered without further process.

28 ///

1 CONTINGENCY

2 10. The parties understand and agree that facsimile copies of this Stipulated
3 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
4 and effect as the originals.

5 11. In consideration of the foregoing admissions and stipulations, the parties
6 agree that the Board may, without further notice or formal proceeding, issue and enter the
7 following Order:

8 ORDER

9 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH
10 22978, issued to Respondent LEILA NOEL HENRY is surrendered and accepted by the Board.

11 12. The surrender of Respondent's Pharmacy Technician Registration and the
12 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
13 against Respondent. This stipulation constitutes a record of the discipline and shall become a
14 part of Respondent's license history with the Board.

15 13. Respondent shall lose all rights and privileges as a pharmacy technician in
16 California as of the effective date of the Board's Decision and Order.

17 14. Respondent shall cause to be delivered to the Board both her wall and
18 pocket Registration on or before the effective date of the Decision and Order.

19 15. Respondent understands and agrees that if she ever applies for licensure or
20 petitions for reinstatement in the State of California, the Board shall treat it as a new application
21 for licensure. Respondent must comply with all the laws, regulations and procedures for
22 licensure in effect at the time the application or petition is filed, and all of the charges and
23 allegations contained in Accusation No. 2823 shall be deemed to be true, correct and admitted
24 by Respondent when the Board determines whether to grant or deny the application or petition.

25 16. Should Respondent ever apply or reapply for a new license or certification,
26 or petition for reinstatement of a license, by any other health care licensing agency in the State of
27 California, all of the charges and allegations contained in Accusation, No. 2823 shall be deemed
28 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any

1 other proceeding seeking to deny or restrict licensure.

2 17. Respondent shall pay the Board its costs of investigation and enforcement
3 in the amount of \$ 3,701.00 prior to issuance of a new or reinstated license.

4 ACCEPTANCE

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

9 DATED: 10/3/05

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12 LEILA NOEL HENRY (Respondent)
13 Respondent
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ENDORSEMENT

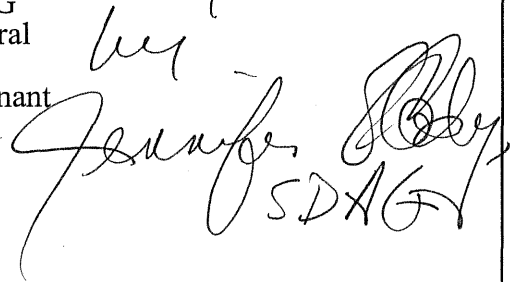
The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board.

DATED: 11/22/2005.

BILL LOCKYER, Attorney General
of the State of California


KIMBERLEE D. KING
Deputy Attorney General

Attorneys for Complainant


Jennifer S. King
SDAG

DOJ Matter ID: LA2004602342
henry-surrender-stip.wpd

BEFORE THE

In the Matter of the Accusation Against:

LEILA NOEL HENRY
11113 Moorpark St., #206
North Hollywood, CA 91602

Pharmacy Technician Registration No. TCH
22978

Respondent.

Case No. 2823

OAH No.

DECISION AND ORDER


The attached Stipulated Surrender of License and Order is hereby adopted by the Board, as its Decision in this matter.

This Decision shall become effective on February 17, 2006.

It is so ORDERED January 18, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2823

1 BILL LOCKYER, Attorney General
of the State of California
2 KIMBERLEE D. KING, State Bar No. 141813
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

10

11 In the Matter of the Accusation Against:

Case No. 2823

12 LEILA NOEL HENRY
11113 Moorpark St., #206
13 North Hollywood, CA 91602

A C C U S A T I O N

14 Pharmacy Technician Registration
No. TCH 22978,

15

Respondent.

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18 Complainant alleges:

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PARTIES

20

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

23

24 2. On or about June 27, 1997, the Board of Pharmacy issued Pharmacy
25 Technician Registration No. TCH 22978 to Leila Noel Henry (Respondent). The Pharmacy
26 Technician Registration was in full force and effect at all times relevant to the charges brought
herein and will expire on June 30, 2005, 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 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation. its discretion may deem proper.

5. Section 118, subdivision (b) states:
“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending ore revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

6. Section 4301 of the Code states:
“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:

....
“(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.

....

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1 “(j) The violation of any of the statutes of this state or of the United States
2 regulating controlled substances and dangerous drugs.

3

4 “(p) Actions or conduct that would have warranted denial of a license.

5 7. Section 4060 of the Code states:

6 “No person shall possess any controlled substance, except that furnished to a
7 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished
8 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
9 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This
10 section shall not apply to the possession of any controlled substance by a manufacturer,
11 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse
12 practitioner, or physician assistant, when in stock in containers correctly labeled with the name
13 and address of the supplier or producer.

14 “Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
15 or a physician assistant to order his or her own stock of dangerous drugs and devices.”

16 8. Health and Safety Code section 11170 provides: “no person shall
17 prescribe, administer, or furnish a controlled substance for himself.”

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

22 10. Business and Professions Code section 125.3, subdivision (a), states, in
23 pertinent part:

24 "Except as otherwise provided by law, in any order issued in resolution of a
25 disciplinary proceeding before any board within the department . . . the board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations
27 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case."

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11. CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

A. "Clonazepam, generic for Klonopin, is an anti-anxiety benzodiazepine, and a Schedule IV controlled substances as designated by Health and Safety Code section 11057(d) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

B. "Carisoprodol", generic for Soma, is a dangerous drug according to Business and Professions Code section 4022. Its indicated use is as an adjunct to rest, physical therapy and other measures for acute painful musculoskeletal conditions.

C. "Darvocet", a combination drug containing propoxyphene napsylate and acetaminophen, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057(c)(2) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

FIRST CAUSE FOR DISCIPLINE

(Administering Controlled Substances to Oneself)

12. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivisions (h) and (j) of the Code on the grounds of unprofessional conduct for violating Health and Safety Code section 11170 in that Respondent administered controlled substances and/or dangerous drugs to herself. The circumstances are as follows:

a. On or about February 18, 2004, the Highway Patrol responded to a report that a vehicle was blocking two lanes off a freeway exit. The officers who arrived at the scene observed Respondent inside her vehicle, attempting to start the car when it was already running. The front right tire was flat and shredded. The Highway Patrol officer observed that Respondent gazed absently at him with red eyes and half shut. Upon exiting the vehicle, Respondent staggered, stumbled and had to hold on to the rear of the car for balance. One of the Highway Patrol officers administered field sobriety tests on Respondent but discontinued the tests when Respondent was unable to perform the tests.

b. The Highway Patrol officer determined that Respondent was under the influence of drugs or alcohol. Respondent was subsequently arrested for driving under the influence and taken to the West Valley California Highway Patrol station where she was submitted to an urine screen test. At the police station, a drug recognition evaluator evaluated

1 Respondent and determined that she was under the influence of CNS depressants. By her own
2 admission, Respondent had taken Clonopin and Soma. She had previously indicated that she had
3 no medical problems.

4 SECOND CAUSE FOR DISCIPLINE

5 (Possession of a Controlled Substance)

6 13. Respondent is subject to disciplinary action under sections 4300 and 4301,
7 subdivisions (j) and (p), of the Code on the ground of unprofessional conduct for violating
8 section 4060 of the Code, and Health and Safety Code section 11173 in that Respondent was in
9 possession of controlled substances and/or dangerous drugs, without a prescription. The
10 circumstances are as follows:

11 a. On or about February 18, 2004, Respondent was approached by West
12 Valley Highway Patrol officers because her vehicle was stalled and blocking two street lanes.
13 After it was determined that Respondent was under the influence of a controlled substance, one
14 of the officers conducted an inventory of her vehicle and her purse. The officer found a quantity
15 of controlled substances in Respondent's purse. They recovered nine (9) white pills labeled
16 Carisoprodol; six (6) pills labeled Clonazepam, ten (10) pink pills labeled Propoxyphene
17 Napsylate and two (2) pills labeled Soma Compound. All the pills were in plastic blister
18 packaging without a prescription or dosing information. Respondent told the drug evaluator that
19 she did not have any medical problems.

20 PRAYER

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

23 A. Revoking or suspending Pharmacy Technician Registration No. TCH
24 22978, issued to Leila Noel Henry.

25 B. Ordering Leila Noel Henry to pay the Board of Pharmacy the reasonable
26 costs of the investigation and enforcement of this case, pursuant to Business and Professions
27 Code section 125.3;

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C. Taking such other and further action as deemed necessary and proper.

DATED: 2/22/05

P. J. Harris
PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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CML (12/29/2004)