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Attorneys for Complainant

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

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. **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

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

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

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

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

JURISDICTION

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

ADVISEMENT AND WAIVERS

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

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

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

CULPABILITY

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

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

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CONTINGENCY

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

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

ORDER

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

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

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

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

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

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

other proceeding seeking to deny or restrict licensure.

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

ACCEPTANCE

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

DATED: 10/3/05.

LEILA NOEL HENRY (Respondent)
Respondent

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

KIMBERLEE D. KING
Deputy Attorney General

by Jennifer [illegible] SDAG

Attorneys for Complainant

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

BILL LOCKYER, Attorney General
of the State of California
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Attorneys for Complainant

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

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 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about June 27, 1997, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 22978 to Leila Noel Henry (Respondent). The Pharmacy 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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"(j) The violation of any of the statutes of this state or of the United States regulating controlled substances and dangerous drugs.

. . . .

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

7. 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, or veterinarian, 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. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, 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 practitioner, or a physician assistant to order his or her own stock of dangerous drugs and devices."

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

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

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

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

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

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

SECOND CAUSE FOR DISCIPLINE

(Possession of a Controlled Substance)

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

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

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:

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

B. Ordering Leila Noel Henry 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;

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

DATED: 2/22/05

P. F. Harris

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

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