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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: TRACI KATHLEEN MOORE 5516 W Davit Santa Ana, CA 92704 Pharmacy Technician Registration No. 41209 Respondent.	Case No. 2838 OAH No. L2005030497 **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 James M. Ledakis, Deputy Attorney General.

2. TRACI KATHLEEN MOORE (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about July 23, 2003, the Board of Pharmacy issued Pharmacy Technician Registration No. 41209 to TRACI KATHLEEN MOORE. The Registration was in

full force and effect at all times relevant to the charges brought in Accusation No. 2838 and will expire on May 31, 2005, unless renewed.

JURISDICTION

4. Accusation No. 2838 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 April 7, 2005. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2838 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. 2838. 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. 2838, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician Registration No. 41209 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation, she enables the Director to issue an order accepting the surrender of her Pharmacy Technician Registration without further process.

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 Director may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. 41209, issued to Respondent TRACI KATHLEEN MOORE is surrendered and accepted by the Board of Pharmacy.

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 Director's Decision and Order.

14. Respondent shall cause to be delivered to the Board both her wall and pocket license certificate 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. 2838 shall be deemed to be true, correct and admitted by Respondent when the Director determines whether to grant or deny the application or petition.

16. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $750.00 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 of Pharmacy.

DATED: June 6, 2005.

TRACI KATHLEEN MOORE
Respondent

ENDORSEMENT

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

DATED: June 13, 2005.

BILL LOCKYER, Attorney General
of the State of California

JAMES M. LEDAKIS
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005700009
70021768.wpd

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

In the Matter of the Accusation Against: TRACI KATHLEEN MOORE 5516 W Davit Santa Ana, CA 92704 Pharmacy Technician Registration No. 41209 Respondent.	Case No. 2838 OAH No. L2005030497

DECISION AND ORDER

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

This Decision shall become effective on August 12, 2005.

It is so ORDERED July 13, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2838

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

In the Matter of the Accusation Against: TRACI KATHLEEN MOORE 5516 W Davit Santa Ana, CA 92704 Pharmacy Technician Registration No. 41209 Respondent.	OAH No. Case No. 2838 **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 July 23, 2003, the Board of Pharmacy issued Original Pharmacy Technician Registration No. TCH 41209 to TRACI KATHLEEN MOORE (Respondent). Said license will expire on May 31, 2005, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Pharmacy (Board), under the authority of the following sections of the Business and Professions Code (Code).

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:

. . . .

5. 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:

. . . .

(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 of the United States regulating controlled substances and dangerous drugs.

. . . .

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and

to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

. . . .

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

. . . .

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, 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.

. . . .

7. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

8. Section 125.3 of the Code provides, in pertinent part, that 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.

Statement of Alleged Facts:

9. On August 11, 2004, officers were investigating a possible domestic violence disturbance. While at her residence, officers observed respondent and determined that she was under the influence of some kind of stimulant. Later, respondent admitted to smoking methamphetamine and that she had a drug problem. Respondent was arrested for being under the influence of methamphetamine, a controlled substance. On October 21, 2004, in Orange County Superior Court in criminal Case No. 04WM09557, respondent pled guilty to a violation of Health & Safety Code section 11550, for being under the influence of a controlled substance.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Acts Involving Moral Turpitude)

J. Respondent is subject to disciplinary action under section 4301(f) in that Respondent was arrested and convicted for being under the influence of a controlled substance as set forth in paragraph 9, above.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Self Administration of Drugs)

K. Respondent is subject to disciplinary action under section 4301(h) in that she admitted to administering to herself, a controlled substance, specifically, methamphetamine, in violation of Health and Safety Code section 11550, as set forth in paragraph 9, above.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Violation of Law)

L. Respondent is subject to disciplinary action under section 4301(j) in that Respondent was convicted of violating Health & Safety Code section 11550, a misdemeanor, in the Superior Court for the County of Orange as set forth paragraphs 9, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Conviction of Crime Substantially Related to Duties of a Pharmacy Technician)

M. Respondent is subject to disciplinary action under section 4301(l) in that Respondent pled guilty to possession of controlled substances resulting in a conviction for violation of Health & Safety Code section 11550 as set forth in paragraph 9, above.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct for Engaging in Conduct Warranting Denial of a License)

N. Respondent is subject to disciplinary action under section 4301(p) in that her conduct as set forth above would warrant the denial of a Pharmacist technician license as set forth in paragraph 9, above.

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 TCH License No. 41209, issued to TRACI KATHLEEN MOORE;

B. Ordering TRACI KATHLEEN MOORE 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;

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