

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

In the Matter of the Accusation Against:

Case No. 3658

WAYNE BUENCMINO CUAYU

27580 Gainesville Avenue

Hayward, CA 94545

Pharmacy Technician Registration No. TCH

77398

Respondent.

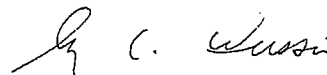
DECISION AND ORDER

The attached Stipulated Surrender of License 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 May 11, 2011.

It is so ORDERED April 11, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3658

11 **WAYNE BUENCAMINO CUAYU**
12 **27580 Gainesville Avenue**
13 **Hayward, CA 94545**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacy Technician License No. TCH 77398**

15 Respondent.

16 In the interest of a prompt and speedy resolution of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs
18 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
19 submitted to the Board for approval and adoption as the final disposition of the Accusation.

20 PARTIES

21 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
22 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
23 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

24 2. Wayne Buencamino Cuayu (Respondent) is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about July 19, 2007, the Board of Pharmacy issued Pharmacy Technician
27 License No. TCH 77398 to Respondent. The License was in full force and effect at all times
28 relevant to the charges in Accusation No. 3658 and will expire on June 30, 2011, unless renewed.

1 JURISDICTION

2 4. Accusation No. 3658 was filed before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
4 statutorily required documents were properly served on Respondent on October 1, 2010.
5 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
6 No. 3658 is attached as exhibit A and incorporated herein by reference.

7 ADVISEMENT AND WAIVERS

8 5. Respondent has carefully read, and understands, the charges and allegations in
9 Accusation No. 3658. Respondent also has carefully read, and understands, the effects of this
10 Stipulated Surrender of License and Order.

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

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

20 CULPABILITY

21 8. Respondent admits the truth of each and every charge and allegation in Accusation
22 No. 3658, agrees that cause exists for discipline, and hereby surrenders his Pharmacy Technician
23 License No. TCH 77398 for the Board's formal acceptance.

24 9. Respondent understands that by signing this stipulation he enables the Board to issue
25 an order accepting the surrender of his Pharmacy Technician Registration without further process.

26 CONTINGENCY

27 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
28 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may

1 communicate directly with the Board regarding this stipulation and surrender, without notice to or
2 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
3 he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board
4 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
5 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
7 be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that facsimile copies of this stipulation, including
9 facsimile signatures, shall have the same force and effect as the originals.

10 12. This Stipulated Surrender of License and Order is intended by the parties to be an
11 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
13 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
14 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
15 executed by an authorized representative of each of the parties.

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

18 **ORDER**

19 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 77398, issued to
20 Respondent Wayne Buencamino Cuayu, is surrendered and accepted by the Board of Pharmacy.

21 14. The surrender of Respondent's Pharmacy Technician License and the acceptance of
22 the surrendered license by the Board shall constitute the imposition of discipline against
23 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
24 Respondent's license history with the Board.

25 15. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
26 as of the effective date of the Board's Decision and Order.

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

1 17. Respondent may not apply, reapply, or petition for any licensure or registration of the
2 Board for three (3) years from the effective date of the Decision and Order.

3 18. If Respondent ever applies for licensure or petitions for reinstatement in the State of
4 California, the Board shall treat it as a new application for licensure. Respondent must comply
5 with all the laws, regulations and procedures for licensure in effect at the time the application or
6 petition is filed, and all of the charges and allegations contained in Accusation No. 3658 shall be
7 deemed to be true, correct and admitted by Respondent when the Board determines whether to
8 grant or deny the application or petition.

9 19. If Respondent ever applies or reapplies for a new license or certification, or petitions
10 for reinstatement of a license, from or by any other health care licensing agency in the State of
11 California, all of the charges and allegations contained in Accusation, No. 3658 shall be deemed
12 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
13 other proceeding seeking to deny or restrict licensure.


14 20. Respondent shall pay the Board its costs of investigation and enforcement in the
15 amount of \$1,757.50 prior to issuance of a new or reinstated license.

16
17 ACCEPTANCE

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

22
23 DATED: _____

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WAYNE BUENAGAMINÓ CUAYU
Respondent

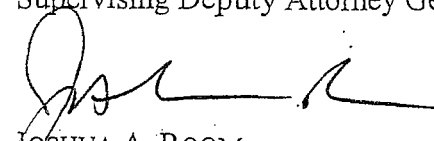
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ENDORSEMENT

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: FEBRUARY 18, 2011

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



JOSHUA A. ROOM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3658

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Accusation Against:

Case No. 3658

11 **WAYNE BUENCAMINO CUAYU**
12 **27773 Gainseville Ave.**
13 **Hayward, CA 94545**

ACCUSATION

14 **Pharmacy Technician License No. TCH 77398**

15 Respondent.

16 Complainant alleges:

17
18 PARTIES

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

21 2. On or about July 19, 2007, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 77398 to Wayne Buencamino Cuayu (Respondent). The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on June 30, 2011, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code (Code) unless otherwise indicated.

1 9. California Code of Regulations, title 16, section 1770, states:

2 “For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by her license or registration in a
7 manner consistent with the public health, safety, or welfare.”

8 COST RECOVERY

9 10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
10 administrative law judge to direct a licentiate found to have committed a violation of the licensing
11 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

12 FACTUAL BACKGROUND

13 11. On or about August 18, 2008; Respondent and a female companion were traveling in
14 an automobile, and they stopped at a gas station in Milpitas, CA. Respondent had been drinking,
15 and was under the influence of alcohol. Respondent and his companion got into an argument that
16 soon turned physical. According to statements from witnesses and/or Respondent’s companion
17 (the victim), during the succeeding altercation Respondent: punched, kicked, restrained, and bit
18 the neck and ear of the victim; threatened the victim; and drove the vehicle out of the gas station,
19 and back into the gas station, while threatening to use the vehicle to run over the victim.

20 FIRST CAUSE FOR DISCIPLINE

21 (Conviction of Substantially Related Crime(s))

22 12. Respondent is subject to discipline under section 4301(1) and/or section 490 of the
23 Code, by reference to California Code of Regulations, title 16, section 1770, for the conviction of
24 substantially related crime(s), in that on or about April 8, 2009, in *People v. Wayne Buencamino*
25 *Cuayu*, Case No. CC815671 in Santa Clara County Superior Court, Respondent was convicted on
26 the basis of the conduct described in paragraph 11 of violating (1) Vehicle Code section 23152(b)
27 (Driving with blood alcohol of 0.08% or more), a misdemeanor, and (2) Penal Code section
28 245(a)(1) (Assault likely to cause great bodily injury), a felony, as follows::

1 a. On or about August 20, 2008, based on the conduct described in paragraph 11,
2 Respondent was charged by criminal Complaint in Case No. CC815671 with violating (1) Penal
3 Code section 203 (Mayhem – damage/disabling of ear), a felony, with a special allegation for the
4 infliction of great bodily injury pursuant to Penal Code sections 667 and 1192.7, (2) Penal Code
5 section(s) 242-243(d) (Battery causing serious bodily injury), a felony, with a special allegation
6 for the infliction of great bodily injury pursuant to Penal Code sections 667 and 1192.7, (3)
7 Vehicle Code section 23152(a) (Driving under influence of alcohol), a misdemeanor, and (4)
8 Vehicle Code section 23152(b) (Driving with blood alcohol of 0.08% or more), a misdemeanor.

9 b. On or about April 8, 2009, an amendment was made to add another charge for
10 violating (5) Penal Code section 245(a)(1) (Assault likely to cause great bodily injury), a felony
11 with a special allegation for the infliction of great bodily injury pursuant to Penal Code sections
12 667 and 1192.7. Respondent pleaded nolo contendere to counts (4) and (5) and was convicted of
13 violating Vehicle Code section 23152(b) (Driving with blood alcohol of 0.08% or more), a
14 misdemeanor, and Penal Code section 245(a)(1) (Assault likely to cause great bodily injury), a
15 felony, with a special allegation for the infliction of great bodily injury pursuant to Penal Code
16 sections 667 and 1192.7. Counts one to three were dismissed pursuant to the plea

17 b. On or about June 9, 2009, imposition of sentence was suspended in favor of a
18 period of formal probation of three (3) years on terms and conditions including ten (10) months in
19 county jail (3 days CTS), a treatment program, driver's license suspension, and fines and fees.

20 SECOND CAUSE FOR DISCIPLINE

21 (Dangerous or Injurious Use of Alcohol)

22 13. Respondent is subject to discipline under section 4301(h) of the Code, in that as
23 described in paragraphs 11 and 12, Respondent used alcohol in a dangerous or injurious manner.

24 THIRD CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct)

26 14. Respondent is subject to discipline under section 4301 of the Code in that, as
27 described in paragraphs 11 to 13, Respondent engaged in unprofessional conduct.

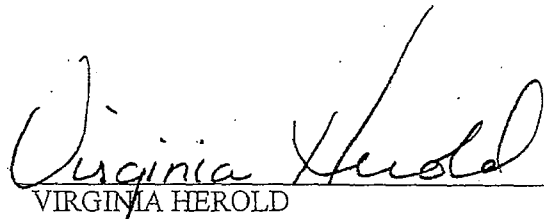
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PRAYER

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:

1. Revoking or suspending Pharmacy Technician License No. TCH 77398, issued to Wayne Buencamino Cuayu (Respondent);
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 9/23/10



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

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