

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

In the Matter of the Accusation Against:

Case No. 3741

ERIC J. BERESFORD
1075 Easton Ave., #11 PMB-312
Somerset, NJ 08873

Pharmacist License No. RPH 49692

Respondent.

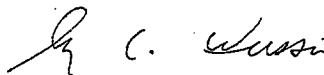
DECISION AND ORDER

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 25, 2012.

It is so ORDERED on April 25, 2012.

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 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2078
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3741

12 **ERIC J. BERESFORD**
13 1075 Easton Ave., #11-312
Somerset, NJ 08873

OAH No. 2011050244

14 **Pharmacist License No. RPH 49692**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Respondent.
16

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

20 PARTIES

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

25 2. Eric J. Beresford (Respondent) is representing himself in this proceeding and has
26 chosen not to exercise his right to be represented by counsel.

27 3. On or about August 26, 1997, the Board of Pharmacy issued Pharmacist License No.
28 RPH 49692 to Eric J. Beresford (Respondent). The Pharmacist License was

1 in full force and effect at all times relevant to the charges brought in Accusation No. 3741 and will
2 expire on February 28, 2013, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3741 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on November 10, 2010.
7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 3741 is attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 3741. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

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

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

22 CULPABILITY

23 8. Respondent admits that if the allegations contained in Accusation No. 3741 were
24 deemed to be true following an administrative hearing, it would constitute cause for taking
25 disciplinary action against his license. In order to forgo the time and expense involved in an
26 administrative hearing, Respondent hereby surrenders his Pharmacist License No. RPH 49692 for
27 the Board's formal acceptance.

28 ///

1 ///

2 ///

3 ORDER

4 IT IS HEREBY ORDERED that Pharmacist License No. RPH 49692, issued to Respondent
5 Eric J. Beresford, is surrendered and the surrendered license is accepted by the Board of
6 Pharmacy.

7 1. The surrender of Respondent's Pharmacist License and the acceptance of the
8 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
9 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
10 license history with the Board of Pharmacy.

11 2. Respondent shall lose all rights and privileges as a pharmacist in California as of the
12 effective date of the Board's Decision and Order.

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

15 4. If Respondent ever files an application for licensure or a petition for reinstatement in
16 the State of California, the Board shall treat it as a new application for licensure. Respondent
17 must comply with all the laws, regulations and procedures for reinstatement of a revoked license
18 in effect at the time the petition is filed, and all of the charges and allegations contained in
19 Accusation No. 3741 shall be deemed to be true, correct and admitted by Respondent when the
20 Board determines whether to grant or deny the petition. Respondent also agrees not to apply to
21 the Board of Pharmacy for licensure in California until three years after the effective date of this
22 Decision and Order.

23 5. Respondent shall pay the Board its costs of investigation and enforcement in the
24 amount of \$3,230.00 prior to issuance of a new or reinstated license.

25 6. If Respondent should ever apply or reapply for a new license or certification, or
26 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. 3741 shall be deemed
28


1 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
2 other proceeding seeking to deny or restrict licensure.

3 ///

4 ACCEPTANCE

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

9
10 DATED: 20-Mar-2012


ERIC J. BERESFORD
Respondent

11
12
13 ENDORSEMENT

14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
15 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

16 Dated: 3/21/2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



SHERRY L. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

17
18
19
20
21
22
23
24 SD2010701322
25 70545193.doc
26
27
28

Exhibit A

Accusation No. 3741

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2078
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3741

12 **ERIC J. BERESFORD**
13 **3587 Hwy. 9**
14 **Freehold, NJ 07728**

ACCUSATION

15 **Original Pharmacist License No. RPH 49692**

16 Respondent.

17 Complainant alleges:

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 August 26, 1997, the Board of Pharmacy issued Original Pharmacist
22 License Number RPH 49692 to Eric J. Beresford (Respondent). The Original Pharmacist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 February 28, 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 unless otherwise indicated.

1 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
2 the Penal Code.

3 8. Section 493 of the Code states:

4 Notwithstanding any other provision of law, in a proceeding conducted by a
5 board within the department pursuant to law to deny an application for a license or to
6 suspend or revoke a license or otherwise take disciplinary action against a person
7 who holds a license, upon the ground that the applicant or the licensee has been
8 convicted of a crime substantially related to the qualifications, functions, and duties
9 of the licensee in question, the record of conviction of the crime shall be conclusive
10 evidence of the fact that the conviction occurred, but only of that fact, and the board
11 may inquire into the circumstances surrounding the commission of the crime in order
12 to fix the degree of discipline or to determine if the conviction is substantially related
13 to the qualifications, functions, and duties of the licensee in question.

14 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
15 'registration.'

16 9. Section 4301 of the Code states:

17 The board shall take action against any holder of a license who is guilty of
18 unprofessional conduct or whose license has been procured by fraud or
19 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
20 not limited to, any of the following:

21 ...
22 (h) The administering to oneself, of any controlled substance, or the use of any
23 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
24 dangerous or injurious to oneself, to a person holding a license under this chapter, or
25 to any other person or to the public, or to the extent that the use impairs the ability of
26 the person to conduct with safety to the public the practice authorized by the license.

27 ...
28 (l) The conviction of a crime substantially related to the qualifications,
functions, and duties of a licensee under this chapter. . . . 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. . . .

REGULATORY PROVISIONS

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

For the purpose of denial, suspension, or revocation of a personal or facility
license pursuant to Division 1.5 (commencing with Section 475) of the Business and
Professions Code, a crime or act 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

1 functions authorized by his license or registration in a manner consistent with the
2 public health, safety, or welfare.

3 11. California Code of Regulations, title 16, section 1769, subdivision b, states:

4 When considering the suspension or revocation of a facility or personal license
5 on the ground that the licensee or the registrant has been convicted of a crime, the
6 board in evaluating the rehabilitation of such person and his present eligibility for a
7 license will consider the following:

8 (1) The nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) Time that has elapsed since the commission of the act(s) or offense(s).

11 (4) Whether the licensee has complied with all terms of parole, probation, restitution,
12 or any other sanctions lawfully imposed against the licensee.

13 (5) Evidence, if any, of rehabilitation submitted by the licensee.

14 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 **FACTS**

19 13. On or about March 1, 2010, in a criminal proceeding entitled *People of the State of*
20 *California v. Eric J. Beresford*, in the Superior Court, County of Orange, Harbor Justice Center,
21 Newport Beach Facility, Case Number 09HM06589, Respondent was convicted on his plea of
22 guilty to violating Vehicle Code section 23152 subdivision (b) (driving with a blood alcohol level
23 above .08%), a misdemeanor.

24 14. Respondent was sentenced to three (3) years summary probation, and ordered to
25 complete the First Offender Alcohol Program, appear before the Mothers Against Drunk Driving
26 Victims' Impact Panel, pay restitution to the victim and pay fines in the amount of \$390.00.

27 15. The circumstances of the crime are that on or about July 5, 2009, at 1:50 a.m.
28 Respondent was observed colliding with the concrete center divider at the MacArthur off-ramp at
SR-73, and then driving away. Respondent was stopped approximately 1 1/2 miles from the
scene of the accident. When a police officer contacted Respondent sitting behind the wheel of the
car, Respondent had a strong odor of alcohol on his breath and his speech was slurred. His eyes

1 were red and watery. Respondent admitted to the officer that he had taken Cimbalta, Ambien,
2 Xanax and Provigil earlier in the day. Respondent was administered field sobriety tests which he
3 failed to complete in a satisfactory manner. Following administration of a breath test his blood
4 alcohol level was .13%.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (March 1, 2010 Criminal Conviction for Driving Under the Influence of Alcohol on July 5, 2009)

7 16. Respondent is subject to disciplinary action under Code sections 490, and 4301,
8 subdivision (l), in that he was convicted of a crime substantially related to the duties, functions
9 and qualifications as a pharmacist, as described in paragraphs 14 through 16 above.

10 **SECOND CAUSE FOR DISCIPLINE**

11 (Use of Alcohol in a Dangerous Manner)

12 17. Respondent is subject to disciplinary action under Code section 4301, subdivision (h),
13 in that he ingested a sufficient amount of alcohol to impair his ability to drive safely, and then
14 proceeded to drive a car where he was involved in a hit and run accident, thereby placing himself
15 and others in danger, as described in paragraphs 14 through 16 above.

16 **PRAYER**

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

19 1. Revoking or suspending Original Pharmacist License Number RPH 49692, issued to
20 Eric J. Beresford.

21 2. Ordering Eric J. Beresford to pay the Board of Pharmacy the reasonable costs of the
22 investigation and enforcement of this case, pursuant to Business and Professions Code section
23 125.3;

24 ///

25 ///

26 ///

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

DATED: 11/4/10

Virginia Herold

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