

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

In the Matter of the Accusation Against:

Case No. 3887

TANNA LEE PANEK
2335 Sanquill Avenue
Thermal, CA 92274

Pharmacy Technician Registration No. TCH
47032

Respondent.

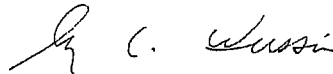
DECISION AND ORDER

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 September 15, 2011.

It is so ORDERED August 16, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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Attorney General of California
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9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3887

13 **TANNA LEE PANEK**
2335 Sanquill Avenue
14 Thermal, CA 92274

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Pharmacy Technician Registration**
16 **No. TCH 47032**

17 Respondent.

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

21 **PARTIES**

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Kamala
24 D. Harris, Attorney General of the State of California, by Amanda Dodds, Senior Legal Analyst.

25 2. Tanna Lee Panek (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

27 3. On or about April 14, 2003, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 47032 to Respondent. The Pharmacy Technician Registration was in full

1 force and effect at all times relevant to the charges brought in Accusation No. 3887 and will
2 expire on September 30, 2012, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3887 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 May 4, 2011. Respondent
7 timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3887 is
8 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. 3887. 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 her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
17 compel the attendance of witnesses and the production of documents; the right to reconsideration
18 and 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 the truth of each and every charge and allegation in Accusation
24 No. 3887, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
25 Registration No. TCH 47032 for the Board's formal acceptance.

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

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CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. 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.

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

13. 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 47032, issued to Respondent Tanna Lee Panek, is surrendered and accepted by the Board of Pharmacy.

1. 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.

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

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

5 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
6 California, the Board shall treat it as a new application for licensure. Respondent must comply
7 with all the laws, regulations and procedures for licensure in effect at the time the application is
8 filed, and all of the charges and allegations contained in Accusation No. 3887 shall be deemed to
9 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
10 the application.

11 5. Should Respondent's application for licensure be granted, she shall pay to the Board
12 costs associated with its investigation and enforcement pursuant to Business and Professions
13 Code section 125.3 in the amount of \$702.50 prior to the issuance of a new license.

14 6. If Respondent should ever apply or reapply for a new license or certification, or
15 petition for reinstatement of a license, by any other health care licensing agency in the State of
16 California, all of the charges and allegations contained in Accusation, No. 3887 shall be deemed
17 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
18 other proceeding seeking to deny or restrict licensure.

19 7. Respondent shall not apply for licensure for three (3) years from the effective date of
20 the Board of Pharmacy's Decision and Order.

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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: 06/07/11


TANNA LEE PANEK
Respondent

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: 6/10/2011

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

AMANDA DODDS
Senior Legal Analyst
Attorneys for Complainant

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Exhibit A

Accusation No. 3887

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
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3 State Bar No. 101336
AMANDA DODDS
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14 **2335 Sanquill Avenue**
15 **Thermal, CA 92274**

A C C U S A T I O N

16 **Pharmacy Technician Registration**
17 **No. TCH 47032**

Respondent.

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about April 14, 2003, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 47032 to Tanna Lee Panek (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on September 30, 2012, unless renewed.

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JURISDICTION

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

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

19 5. Section 4300, subdivision (a) of the Code states "Every license issued may be
20 suspended or revoked."

STATUTORY PROVISIONS

21 6. Section 482 of the Code states:

22 Each board under the provisions of this code shall develop criteria to evaluate
23 the rehabilitation of a person when:

24 (a) Considering the denial of a license by the board under Section 480; or

25 (b) Considering suspension or revocation of a license under Section 490.

26 Each board shall take into account all competent evidence of rehabilitation
27 furnished by the applicant or licensee.

28 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
revoke a license on the ground that the licensee has been convicted of a crime substantially
related to the qualifications, functions, or duties of the business or profession for which the
license was issued.

 8. Section 493 of the Code states:

 Notwithstanding any other provision of law, in a proceeding conducted by a
board within the department pursuant to law to deny an application for a license or to
suspend or revoke a license or otherwise take disciplinary action against a person who
holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order

1 to fix the degree of discipline or to determine if the conviction is substantially related
2 to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 4301 of the Code states:

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

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

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17 (k) The conviction of more than one misdemeanor or any felony involving the
18 use, consumption, or self-administration of any dangerous drug or alcoholic beverage,
19 or any combination of those substances.

20 (l) The conviction of a crime substantially related to the qualifications,
21 functions, and duties of a licensee under this chapter. The record of conviction of a
22 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
23 States Code regulating controlled substances or of a violation of the statutes of this
24 state regulating controlled substances or dangerous drugs shall be conclusive
25 evidence of unprofessional conduct. In all other cases, the record of conviction shall
26 be conclusive evidence only of the fact that the conviction occurred. The board may
27 inquire into the circumstances surrounding the commission of the crime, in order to
28 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.

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1769, states:

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

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

9 (2) Total criminal record.

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

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

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

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

15 For the purpose of denial, suspension, or revocation of a personal or facility
16 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
17 Professions Code, a crime or act shall be considered substantially related to the
18 qualifications, functions or duties of a licensee or registrant if to a substantial degree
19 it evidences present or potential unfitness of a licensee or registrant to perform the
20 functions authorized by his license or registration in a manner consistent with the
21 public health, safety, or welfare.

22 **COSTS**

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

27 **FIRST CAUSE FOR DISCIPLINE**

28 **(April 29, 2010 Criminal Conviction for DUI With Great Bodily Injury on February 8, 2010)**

13. Respondent has subjected her registration to discipline under sections 490 and 4301,
subdivision (l) of the Code in that she was convicted of a crime that is substantially related to the
qualifications, duties, and functions of a pharmacy technician. The circumstances are as follows:

a. On or about April 29, 2010, in a criminal proceeding entitled *People of the
State of California v. Tanna Lee Panek*, in Riverside County Superior Court, case number

1 INF10000436, Respondent was convicted on her plea of guilty to violating Vehicle Code section
2 23153, subdivision (a), driving under the influence of alcohol and causing great bodily injury to
3 two persons, a felony. The court found true the enhancement that both victims were 70 years of
4 age or older, within the meaning of Penal Code sections 12022.7, subdivision (c) and 1192.7,
5 subdivision (c)(8). A second count of driving with a blood alcohol concentration (BAC) of .08 or
6 more and causing great bodily injury (Veh. Code, § 23153, subd. (b)), was dismissed pursuant to
7 a plea bargain.

8 b. As a result of the conviction, on or about June 22, 2010, the court ordered
9 Respondent incarcerated for the low term of one year and four months as to the principal count,
10 and the upper term of five years for the enhancement, to run consecutively, for a total sentence of
11 six years and four months. Respondent received credit for 13 days.

12 c. The facts that led to the conviction are that on or about the afternoon of
13 February 8, 2010, the Riverside County Sheriff's Department responded to a collision at a Palm
14 Desert intersection. The victims, a 74-year-old man and his 72-year-old companion, were driving
15 on Highway 74 when Respondent entered an intersection from a side street and into the path of
16 the victims. The victim driver was not able to stop in time and collided with Respondent's
17 vehicle. All three were taken to a local hospital. At the hospital, a sheriff's deputy contacted
18 Respondent. He immediately noticed the odor of an alcoholic beverage on her breath.
19 Respondent denied consuming alcohol and told the deputy the last time she drank was one or two
20 weeks earlier. Since Respondent was wearing a neck brace as a precautionary measure, the
21 deputy was only able to conduct a horizontal gaze nystagmus test, which revealed a marked lack
22 of smooth pursuit and nystagmus at maximum deviation. Respondent provided a breath sample
23 for the preliminary alcohol screening test which was analyzed with a BAC of .29 percent.
24 Respondent was arrested for driving under the influence causing injury. As a result of
25 Respondent's actions, her elderly male victim suffered a punctured lung and multiple rib
26 fractures, and his elderly female passenger suffered fractures of her C1 and C2 vertebrae, as well
27 as fractures of her sternum and right forearm. Respondent was treated for minor injuries and
28 released.

