

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

In the Matter of the Accusation Against:

Case No. 3893

Jorge Fausto
8977 San Carlos Avenue
South Gate, CA 90280
Pharmacy Technician License No. TCH 30829

Respondent.

DECISION AND ORDER

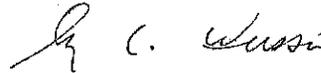
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on August 27, 2012.

It is so ORDERED on July 27, 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 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 3893

13 **JORGE ARTURO FAUSTO**
8977 San Carlos
14 South Gate, CA 90280
Pharmacy Technician License No. TCH
30829

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

19 PARTIES

- 20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by William D. Gardner, Deputy Attorney
23 General.
- 24 2. Jorge Arturo Fausto (Respondent) is representing himself in this proceeding and has
25 chosen not to exercise his right to be represented by counsel.
- 26 3. On or about September 21, 1999, the Board of Pharmacy issued Pharmacy Technician
27 License No. TCH 30829 to Jorge Arturo Fausto (Respondent). The Pharmacy Technician
28 License expired on July 31, 2011, and has not been renewed.

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 Stipulated Surrender of
9 License and Order, including facsimile signatures thereto, shall have the same force and effect as
10 the originals.

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

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

19 **ORDER**

20 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 30829, issued to
21 Respondent Jorge Arturo Fausto, is surrendered and accepted by the Board of Pharmacy.

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

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

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

3 4. Respondent understands and agrees that if he ever files an application for licensure or
4 a petition for reinstatement in the State of California, the Board shall treat it as a new application
5 for licensure.

6 5. Respondent may not apply for any license, permit, or registration from the Board for
7 three (3) years from the effective date of this decision. Respondent stipulates that should he apply
8 for any license from the Board on or after the effective date of this decision, all allegations set
9 forth in the accusation shall be deemed to be true, correct and admitted by respondent when the
10 Board determines whether to grant or deny the application. Respondent shall satisfy all
11 requirements applicable to that license as of the date the application is submitted to the Board,
12 including, but not limited to certification by a nationally recognized body prior to the issuance of
13 a new license. Respondent is required to report this surrender as disciplinary action.

14 6. Respondent stipulates that should he apply for any license from the Board on or after
15 the effective date of this decision, investigation and prosecution costs in the amount of \$1,900.00
16 shall be paid to the Board prior to issuance of the license.

17 7. If Respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation, No. 3893 shall be deemed
20 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
21 other proceeding seeking to deny or restrict licensure.

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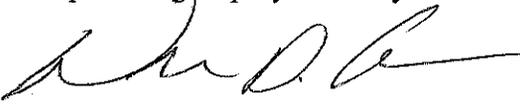
ACCEPTANCE

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 License. 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: 05-31-12 
JORGE ARTURO FAUSTO
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: 6/1/12 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General

WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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10 In the Matter of the Accusation Against:

Case No. 3893

11 **JORGE ARTURO FAUSTO**
12 8977 San Carlos
13 South Gate, CA 90280

ACCUSATION

14 Pharmacy Technician License No. TCH 30829

15 Respondent.

16
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 September 21, 1999, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 30829 to Jorge Arturo Fausto (Respondent). On August 25, 2011, the license
23 was summarily suspended during term of incarceration, pursuant to Business and Professions
24 Code section 4311. The Pharmacy Technician License expired on July 31, 2011, and has not
25 been renewed.

26 **JURISDICTION**

- 27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 **COST RECOVERY**

5 9. Section 125.3 provides that the Board may request the administrative law judge to
6 direct a licentiate found to have committed a violation or violations of the licensing act to pay a
7 sum not to exceed the reasonable costs of the investigation and enforcement of the case.

8 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

9 10. Hydrocodone, with trade names of Lortab, Norco and Vicodin, are Schedule III
10 controlled substances pursuant to Health and Safety Code section 11056(e)(4), and are
11 categorized as dangerous drugs pursuant to section 4022.

12 11. Xanax, a brand name for alprazolam, is a Schedule IV controlled substance pursuant
13 to Health and Safety Code section 11057(d)(1), and is categorized as a dangerous drug pursuant
14 to section 4022.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Criminal Conviction)**

17 12. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
18 that Respondent was convicted of a crime substantially related to the qualifications, functions,
19 and duties of a registered pharmacy technician, as follows.

20 a. On or about November 9, 2010, in the criminal proceeding entitled *The People of the*
21 *State of California v. Jorge Arturo Fausto* (Super. Ct. Los Angeles County, 2010, No.
22 VA109894), Respondent entered a plea of nolo contendere and was convicted of one felony count
23 of violating Health and Safety Codes section 11375(b)(1) [possess controlled substances for sale].
24 He was sentenced to two (2) years in state prison.

25 1) The circumstances underlying the conviction are that on or about August 20, 2008,
26 Respondent was arrested by the South Gate Police Department after officers observed
27 Respondent engage in an illegal drug transaction. At the time of his arrest, Respondent
28 was in possession of 1,200 Hydrocodone pills and \$2,650.00 in cash. Respondent admitted

1 to the arresting officers that he had stolen the Hydrocodone pills from his employer,
2 Region Square Pharmacy.

3 b. On or about May 5, 2010, in the criminal proceeding entitled *The People of the State*
4 *of California v. Jorge Arturo Fausto* (Super. Ct. Los Angeles County, 2008, No. SA074235),
5 Respondent entered a plea of guilty and was convicted on two (2) felony counts: (1) Penal Code
6 section 487(a) [grand theft]; and (2) Penal Code section 211[second degree robbery]. Respondent
7 was sentenced to six (6) months in jail for the grand theft conviction and two (2) years in prison
8 for the robbery conviction.

9 1) The circumstances underlying Respondent's grand theft conviction are that on or
10 about November 7, 2008, while working as a pharmacy technician for Regent Square
11 Pharmacy, Respondent placed an unauthorized order for controlled substances using the
12 pharmacy's internet password access. Upon delivery to the pharmacy, Respondent stole
13 the controlled substances, which included more than 1000 Hydrocodone tablets. When
14 confronted by his employer about the unauthorized order and missing narcotics,
15 Respondent admitted to ordering and stealing the drugs and provided his employer with a
16 signed confession on or about November 12, 2008.

17 2) The circumstances underlying Respondent's conviction for second degree robbery are
18 that on or about February 12, 2009, using his familiarity with pharmacy business practices
19 and a previous employer's internet password access, Respondent placed an order for a
20 large quantity of controlled substances, including 3,000 tablets of Super-Vicodin, 43,200
21 tablets of Ephedrine¹, and 100 tablets of generic Xanax, to be delivered his former
22 employer the following day. The next day, Respondent laid in wait for the delivery truck
23 and then carjacked the vehicle at gunpoint, kidnapping the driver and, ultimately, robbing
24 the vehicle of its contents. Respondent was arrested for these crimes on or about February
25 28, 2009, following a police investigation.

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28 ¹ Ephedrine is used for making methamphetamine.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violating the Pharmacy Law: Unlawful Possession)**

3 13. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
4 conjunction with section 4060, subdivision (a), in that respondent violated the California
5 Pharmacy Law (Bus. and Prof. Code § 4000 et seq.) by unlawfully possessing a controlled
6 substance without a prescription. Complainant refers to and by this reference incorporates the
7 allegations set forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth
8 fully herein.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Violating the Pharmacy Law: Unlawful Furnishing)**

11 14. Respondent is subject to disciplinary action under section 4301, subdivision (o), in
12 conjunction with section 4059, subdivision (a), in that respondent violated the California
13 Pharmacy Law (Bus. and Prof. Code § 4000 et seq.) by unlawfully furnishing a controlled
14 substance without a prescription. Complainant refers to and by this reference incorporates the
15 allegations set forth above in paragraph 12, subparagraphs a and b, inclusive, as though set forth
16 fully herein.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Dishonesty/Acts of Moral Turpitude)**

19 15. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
20 that Respondent engaged in acts involving moral turpitude, dishonesty, fraud, deceit and/or
21 corruption. Complainant refers to and by this reference incorporates the allegations set forth
22 above in paragraph 12, subparagraphs a and b, inclusive, as though set forth fully herein.

23 **FIFTH CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct: Making False Pharmacy Records)**

25 16. Respondent is subject to disciplinary action under section 4301, subdivision (g), in
26 that Respondent knowingly created and/or caused to be created pharmacy records and documents
27 that falsely represented the existence of a state of facts. Complainant refers to and by this

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1 reference incorporates the allegations set forth above in paragraph 12, subparagraphs a and b,
2 inclusive, as though set forth fully herein.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Violation of Drug Statutes)**

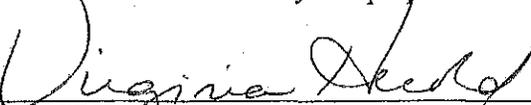
5 17. Respondent is subject to disciplinary action under section 4301, subdivision (j), in
6 that Respondent violated state and federal laws regulating controlled substances and dangerous
7 drugs. Complainant refers to and by this reference incorporates the allegations set forth above in
8 paragraph 12, subparagraphs a and b, inclusive, as though set forth fully herein.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
11 and that following the hearing, the Board issue a decision:

- 12 1. Revoking or suspending Pharmacy Technician License No. TCH 30829, issued to
13 Jorge Arturo Fausto;
- 14 2. Ordering Jorge Arturo Fausto to pay the Board the reasonable costs of the
15 investigation and enforcement of this case, pursuant to section 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 1/25/12


18 VIRGINIA HEROLD
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 Complainant

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