

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

In the Matter of the Accusation Against:

Case No. 4391

**GARY JOSEPH ZALESKI**  
1743 W. Greenview Avenue  
Corona, CA 92880

**Pharmacist License No. RPH 35530**

Respondent.

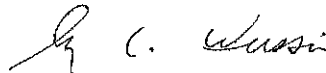
**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order for Surrender 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 January 28, 2015.

It is so ORDERED on January 21, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 RITA M. LANE  
Deputy Attorney General  
4 State Bar No. 171352  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2614  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
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14 **Corona, CA 92880**

15 **Pharmacist License No. 35530**

16 Respondent.

Case No. 4391

OAH No. 2013120068

17 **STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
19 entitled proceedings 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, by Rita M. Lane, Deputy Attorney  
24 General.

25 2. Gary Joseph Zaleski (Respondent) is represented in this proceeding by attorney Tony  
26 J. Park, whose address is 2855 Michelle Drive, Suite 180, Irvine, CA 92606-1027.

27 3. On or about August 15, 1980, the Board of Pharmacy (Board) issued Pharmacist  
28 License No. 35530 to Respondent. The Pharmacist License was in full force and effect at all

1 times relevant to the charges brought in Accusation No. 4391 and will expire on May 31, 2016,  
2 unless renewed.

3 JURISDICTION

4 4. Accusation No. 4391 was filed before the Board and is currently pending against  
5 Respondent. The Accusation and all other statutorily required documents were properly served  
6 on Respondent on October 3, 2013. Respondent timely filed his Notice of Defense contesting the  
7 Accusation. A copy of Accusation No. 4391 is attached as Exhibit A and incorporated by  
8 reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. 4391. Respondent also has carefully read, fully  
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and  
13 Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
15 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
16 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
18 documents; the right to reconsideration and court review of an adverse decision; and all other  
19 rights accorded by the California 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. 4391, agrees that cause exists for discipline and hereby surrenders his Pharmacist License  
25 No. 35530 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the Board to issue  
27 an order accepting the surrender of his Pharmacist License without further process.

28 ///





1 I have read and fully discussed with Respondent Gary Joseph Zaleski the terms and  
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
3 approve its form and content.

4 DATED: 12/10/2014

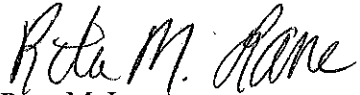
  
TONY J. PARK  
Attorney for Respondent

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7  
8 ENDORSEMENT

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

11 DATED: 12-17-14

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General

  
RITA M. LANE  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 4391**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 RITA M. LANE  
Deputy Attorney General  
4 State Bar No. 171352  
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14 **Corona, CA 92880**

**A C C U S A T I O N**

15 **Pharmacist License No. RPH 35530**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 15, 1980, the Board of Pharmacy issued Pharmacist License  
23 Number 35530 to Gary Joseph Zaleski (Respondent). The Pharmacist License was in full force  
24 and effect at all times relevant to the charges brought herein and will expire on May 31, 2014,  
25 unless renewed.

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28 ///





1 ability of the person to conduct with safety to the public the practice authorized by  
2 the license.

3 ...

4 (j) The violation of any of the statutes of this state, or any other state, or of  
5 the United States regulating controlled substances and dangerous drugs.

6 ....

6 8. Section 4022 of the Code states

7 Dangerous drug" or "dangerous device" means any drug or device unsafe for  
8 self-use in humans or animals, and includes the following:

9 (a) Any drug that bears the legend: "Caution: federal law prohibits  
10 dispensing without prescription," "Rx only," or words of similar import.

11 (b) Any device that bears the statement: "Caution: federal law restricts this  
12 device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar  
13 import, the blank to be filled in with the designation of the practitioner licensed to  
14 use or order use of the device.

15 (c) Any other drug or device that by federal or state law can be lawfully  
16 dispensed only on prescription or furnished pursuant to Section 4006.

14 9. Section 4060 of the Code states:

15 No person shall possess any controlled substance, except that furnished to a  
16 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
17 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
18 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
19 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
20 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a  
21 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
22 of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This  
23 section shall not apply to the possession of any controlled substance by a  
24 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
25 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
26 practitioner, or physician assistant, when in stock in containers correctly labeled  
27 with the name and address of the supplier or producer.

28 Nothing in this section authorizes a certified nurse-midwife, a nurse  
practitioner, a physician assistant, or a naturopathic doctor, to order his or her own  
stock of dangerous drugs and devices.

10. Health and Safety Code section 11173 states in pertinent part that no person shall  
obtain a controlled substance by fraud, deceit, subterfuge or concealment of a material fact.

### COSTS

11. Section 125.3 of the Code states, 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

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
2 enforcement of the case.

### 3 DRUGS

4 12. Methamphetamine is a Schedule II controlled substance as designated by Health and  
5 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions  
6 Code section 4022. It is a stimulant drug.

### 7 FACTS

8 13. On June 1, 2012, police were called to Respondent's home due to a reported  
9 domestic disturbance. Upon the officers' arrival, Respondent was in the garage. Respondent  
10 walked to the driveway and spoke with the officers. When asked if he had any weapons on his  
11 person, Respondent stated he had a screwdriver in his pocket. When officers performed a pat  
12 down of Respondent, looking for the screwdriver, they found a leather case with  
13 methamphetamine and a glass pipe used to smoke methamphetamine. The officers observed that  
14 Respondent exhibited several objective symptoms that he was under the influence of a controlled  
15 substance. Respondent was arrested for possession of a methamphetamine, possession of drug  
16 paraphernalia and for being under the influence of a controlled substance.

17 14. As a result of Respondent's arrest, on or about July 30, 2012, a felony complaint was  
18 filed in the matter of the *People vs. Gary Joseph Zaleski*, in Riverside Superior Court, Case  
19 Number RIF 1204486, charging Respondent with possession of a controlled substance (Health  
20 and Safety Code section 11377(a)), methamphetamine; possession of a device and paraphernalia  
21 used for unlawful injecting and smoking a controlled substance (Health and Safety Code section  
22 11364.1) and for unlawful use and under the influence of a controlled substance (Health and  
23 Safety Code section 11550).

24 15. At a hearing on September 6, 2012, Respondent pled guilty to the felony complaint as  
25 charged and a deferred entry of judgment was entered pursuant to Penal Code section 1000.  
26 Respondent was referred to Drug Court to complete an 18 month drug diversion program. The  
27 matter was set for a follow up sentencing or dismissal hearing on March 6, 2014.

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**FIRST CAUSE FOR DISCIPLINE**

(Unprofessional Conduct: Possession of a Controlled Substance Without a Prescription)

16. Respondent is subject to disciplinary action under Code section 4301(j) in conjunction with Code section 4060 in that on or about June 1, 2012, Respondent was arrested and subsequently pled guilty to possession of a controlled substance without a prescription, an act constituting unprofessional conduct. The circumstances are set forth in detail in paragraphs 13 through 15 above.

**SECOND CAUSE FOR DISCIPLINE**

(Unprofessional Conduct: Self-Administration of a Controlled Substance)

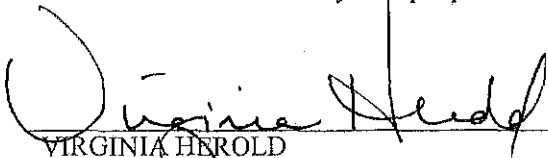
17. Respondent is subject to disciplinary action under Code section 4301(h) for self-administration of a controlled substance in that on or about June 1, 2012, Respondent was arrested and subsequently pled guilty to unlawful use and under the influence of a controlled substance, an act constituting unprofessional conduct. The circumstances are set forth in detail in paragraphs 13 through 15 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:

1. Revoking or suspending Pharmacist License Number 35530, issued to Gary Joseph Zaleski;
2. Ordering Gary Joseph Zaleski 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 9/19/13



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