

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

In the Matter of the Accusation Against:

CHARLES BAN POON
2485 Cumberland Road
San Marino, CA 91108

Pharmacy Technician Registration No. TCH
116278

Respondent.

Case No. 4450

OAH No. 2014090559

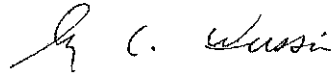
DECISION AND ORDER

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 March 25, 2015.

It is so ORDERED on March 18, 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 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
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Attorneys for Complainant
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4450

12 **CHARLES BAN POON**
2485 Cumberland Road
13 San Marino, CA 91108

OAH No. 2014090559

14 Pharmacy Technician Registration No. TCH
116278

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15
16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings 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 Elyse M. Davidson, Deputy Attorney
23 General.

24 2. Charles Ban Poon (Respondent) is represented in this proceeding by attorney Evan
25 Phillip Freed, whose address is 817 Torrance Blvd, Suite 302, Redondo Beach, CA 90277-3529.

26 3. On or about October 31, 2011, the Board of Pharmacy issued Pharmacy Technician
27 Registration No. TCH 116278 to Charles Ban Poon (Respondent). The Pharmacy

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1 Technician Registration was in full force and effect at all times relevant to the charges brought in
2 Accusation No. 4450 and will expire on August 31, 2015, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 4450 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 28, 2014.

7 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 4450 is attached as Exhibit A and incorporated by 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. 4450. 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 be represented by counsel, at
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

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

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 4450 and agrees that cause exists for discipline and hereby surrenders his Pharmacy
26 Technician Registration No. TCH 116278 for the Board's formal acceptance.

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

1 CONTINGENCY

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

11 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
12 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
13 thereto, shall have the same force and effect as the originals.

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

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

22 ORDER

23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 116278,
24 issued to Respondent Charles Ban Poon, is surrendered and accepted by the Board of Pharmacy.

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

1 2. Respondent shall lose all rights and privileges as a registered pharmacy technician in
2 California as of the effective date of the Board's Decision and Order. Respondent shall relinquish
3 his pharmacy technician certificate and pocket license to the Board within ten (10) of the effective
4 date of the Decision and Order.

5 3. If Respondent ever files an application for licensure or a petition for reinstatement in
6 the State of California, the Board shall treat it as a new application for licensure. Respondent
7 stipulates that should he apply for any license from the Board on or after the effective date of this
8 Decision and Order, all allegations contained in Accusation No. 4450 shall be deemed to be true,
9 correct, and admitted by Respondent when the Board determines whether to grant or deny the
10 application. Respondent shall satisfy all requirements applicable to that license as of the date that
11 the application is submitted to the Board, including, but not limited to certification by a nationally
12 recognized body prior to the issuance of a new license. Respondent is required to report this
13 surrender as a disciplinary action.

14 4. Respondent may not apply for any license, permit or registration from the Board for
15 three (3) years from the effective date of this Decision and Order.

16 5. Respondent shall pay the agency its costs of investigation and enforcement in the
17 amount of \$3,105.00 prior to issuance of a new or reinstated license.

18 6. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation No. 4450 shall be deemed to
21 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
22 other proceeding seeking to deny or restrict licensure.

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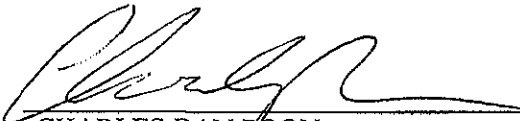
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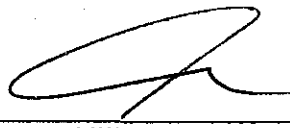
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Evan Phillip Freed. I understand the stipulation and the effect it
4 will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of
5 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Board of Pharmacy.

7
8 DATED: 01/27/2015 
9 CHARLES BAN POON
Respondent

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11
12 I have read and fully discussed with Respondent Charles Ban Poon the terms and conditions
13 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
14 and content.

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16 DATED: 1/30/2015 
17 Evan Phillip Freed
Attorney for 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:

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



ELYSE M. DAVIDSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A
Accusation No. 4450

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4450

12 **CHARLES BAN POON**
2485 Cumberland Road
13 San Marino, CA 91108

A C C U S A T I O N

14 Pharmacy Technician License No. TCH 116278

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about October 31, 2011, the Board of Pharmacy ("Board") issued Pharmacy
21 Technician License No. TCH 116278 to Charles Ban Poon ("Respondent"). The Pharmacy
22 Technician License was in full force and effect at all times relevant to the charges brought herein
23 and will expire on August 31, 2015, unless renewed.

24 **JURISDICTION**

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

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1 4. Section 4011 of the Code provides:

2 "The board shall administer and enforce this chapter [Pharmacy Law, (Business and
3 Professions Code, Sec 4000 et seq.)] and the Uniform Controlled Substances Act (Division 10
4 (commencing with Section 11000) of the Health and Safety Code)."

5 5. Section 4300 of the Code permits the Board to take disciplinary action to suspend or
6 revoke a license issued by the Board.

7 6. Section 4300.1 provides:

8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a license
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 7. Section 4060 of the Code provides, in pertinent part:

15 "No person shall possess any controlled substance, except that furnished to a person upon
16 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
17 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
18 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
19 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
20 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
21 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052..."

22 8. Section 4301 of the Code provides, in pertinent part:

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

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

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"(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency. . . ."

9. Health and Safety Code Section 11377, subdivision (a) states:

"(a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or pursuant to subdivision (h) of Section 1170 of the Penal Code."

CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

10. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I) and is a dangerous drug pursuant to Code section 4022.

11. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code section 11054, subdivision (d)(13) and is categorized as a dangerous drug pursuant to Code section 4022.

12. Methylenedioxyamphetamine ("MDMA") is the methylenedioxy derivative of methamphetamine and is commonly known by the street name Ecstasy. MDMA is a Schedule I controlled substance pursuant to Health and Safety Code section 11054, subdivision (d) and is categorized as a dangerous drug pursuant to Code section 4022.

13. "Zofran," the brand name for ondansetron, is used in the prevention of nausea and vomiting associated with cancer chemotherapy, and is categorized as a dangerous drug pursuant to

1 Code section 4022.

2 14. "Zoloft," the brand name for sertraline, is used for treating depression, obsessive
3 compulsive disorder, panic disorder, and post-traumatic stress disorder, and is categorized as a
4 dangerous drug pursuant to Code section 4022.

5 **COST RECOVERY**

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

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Unlawful Possession of Controlled Substances and Dangerous Drugs)**

12 16. Respondent is subject to disciplinary action under Code sections 4060 and 4301,
13 subdivision (o) on the grounds of unprofessional conduct in that Respondent unlawfully
14 possessed controlled substances and dangerous drugs. The facts and circumstances are as
15 follows:

16 17. On or about May 29, 2012, the Santa Barbara Regional Narcotics Enforcement Team
17 conducted a search at Respondent's residence in Goleta, CA. Law enforcement officers found
18 Respondent locked inside a bedroom with another male. A search of the bedroom revealed a
19 total of 1,740 pills and \$6,250.00. Amongst the pills found was a baggy with 835 pills, including
20 729 MDMA pills, and a box with 9 separate baggies containing 896 pills. The pills were marked
21 with the letter "G," "Pickachu," and "Puma" logos. A miscellaneous number of other pills, drugs,
22 and drug paraphernalia were found in bedroom, including:

- 23 a. One light green pill with an "M/S2" imprint (Zoloft);
24 b. Six dark pills with no imprint;
25 c. A digital scale with Marijuana residue;
26 d. Three white "Onax" pills;
27 e. A baggie containing a white powder;
28 f. A plastic baggie with gelatin capsules (size 1 gelatin -- 1000 capsules);

- 1 g. One yellow pill with a "V36/01" imprint (hydrocodone);
- 2 h. A glass vial with white powder residue;
- 3 i. A bottle with fifteen white odansetron pills;
- 4 j. A baggie with ten Zofran pills;
- 5 k. 10 round white pills with "233" and "93" imprints in a clear baggie;
- 6 l. Two electronic smoking devices;
- 7 m. A zip lock baggie with smaller baggies containing multi-colored pills;
- 8 n. Two blue pills;
- 9 o. 280 grams of Marijuana; and
- 10 p. 460 grams of Hashish.

11 18. Respondent admitted to law enforcement officers that he paid \$3.00 to \$4.00 for each
12 pill of MDMA and sold them for about \$8.00 a pill. In addition, he acknowledged that he
13 comingled his funds with another male to purchase the MDMA.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Violating Drug Statute Regulating Controlled Substances)**

16 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
17 in conjunction with Health and Safety Code section 11377, subdivision (a), on the grounds of
18 unprofessional conduct in that Respondent violated rules and regulations governing controlled
19 substances in that Respondent possessed controlled substances without a valid prescription.
20 Complainant incorporates by reference Paragraph 17 as though fully set forth herein,

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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 116278, issued to Charles Ban Poon;
2. Ordering Charles Ban Poon 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: 5/3/14 Virginia Hudd

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

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