

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

In the Matter of the Accusation Against:

Case No. 4482

RENEE MICHELLE FOWLSTON
141 Woodbury Circle, Unit D
Vacaville, CA 95687

Pharmacy Technician Registration No.
TCH 6493

Respondent.

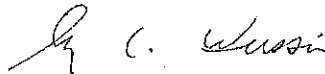
DECISION AND ORDER

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 October 4, 2013.

It is so ORDERED on September 4, 2013.

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 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4482

11 **RENEE MICHELLE FOWLSTON**
12 **141 Woodbury Circle, Unit D**
13 **Vacaville, CA 95687**

OAH No. 2013050226

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacy Technician License No. TCH 6493**

15 Respondent.

16 In the interest of a prompt and speedy resolution of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs
18 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
19 submitted to the Board for approval and adoption as the final disposition of the Accusation.

20
21 PARTIES

22 1. Virginia Herold (Complainant), Executive Officer, Board of Pharmacy, brought this
23 action solely in her official capacity and is represented herein by Kamala D. Harris, Attorney
24 General of the State of California, by Joshua A. Room, Supervising Deputy Attorney General.

25 2. Renee Michelle Fowlston (Respondent) is represented in this proceeding by attorney
26 Robert E. Thurbon, whose address is Thurbon & McHaney LP, 2339 Gold Meadow Way, Suite
27 210, Gold River, CA 95670 (telephone (916) 636-1840).

28 ///

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 4482, agrees that cause exists for discipline, and hereby surrenders her Pharmacy Technician
4 Registration No. TCH 6493 for the Board's formal acceptance.

5 9. Respondent understands that by signing this stipulation she enables the Board to issue
6 an order accepting the surrender of her Pharmacy Technician License without further process.

7
8 RESERVATION

9 10. Admissions made by Respondent herein are only for the purposes of this proceeding,
10 or any other proceedings in which the Board of Pharmacy or other professional licensing agency
11 is involved, and shall not be admissible in any other criminal or civil proceeding.

12
13 CONTINGENCY

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

23 12. The parties understand and agree that facsimile copies of this stipulation, including
24 facsimile signatures thereto, shall have the same force and effect as the originals.

25 13. This Stipulated Surrender of License and Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
2 executed by an authorized representative of each of the parties.

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

5
6 **ORDER**

7 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 6493, issued to
8 Respondent Renee Michelle Fowlston, is surrendered and accepted by the Board of Pharmacy.

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

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

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

17 4. Respondent may not apply, reapply, or petition for any licensure or registration of the
18 Board for three (3) years from the effective date of the Decision and Order.

19 5. If she ever applies for licensure or petitions for reinstatement in the State of
20 California, the Board shall treat it as a new application for licensure. Respondent must comply
21 with all the laws, regulations and procedures for licensure in effect at the time the application or
22 petition is filed, including, but not limited to, certification by a nationally recognized body prior
23 to the issuance of a new license. All of the charges and allegations contained in Accusation No.
24 4482 shall be deemed to be true, correct and admitted by Respondent when the Board determines
25 whether to grant or deny the application or petition.

26 6. Respondent shall pay the Board its costs of investigation and enforcement in the
27 amount of \$4,583.00 prior to issuance of a new or reinstated license.

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

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: 7/2/2013

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


JOSHUA A. ROOM
Supervising Deputy Attorney General
Attorneys for Complainant

SF2012403279
40716073.doc

Exhibit A

Accusation No. 4482

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4482

11 **RENEE MICHELLE FOWLSTON**
12 **141 Woodbury Circle, Unit D**
Vacaville, CA 95687

A C C U S A T I O N

13 **Pharmacy Technician License No. TCH 6493**

14 Respondent.

15
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 April 7, 1993, the Board of Pharmacy issued Pharmacy Technician
22 License No. TCH 6493 to Renee Michelle Fowlston (Respondent). The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on March 31, 2013, 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 (Code) unless otherwise indicated.

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

2 "For the purpose of denial, suspension, or revocation of a personal or facility license
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
6 licensee or registrant to perform the functions authorized by her license or registration in a
7 manner consistent with the public health, safety, or welfare."

8 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
9 drug or dangerous device except upon the prescription of an authorized prescriber.

10 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
11 controlled substance, except that furnished upon a valid prescription/drug order.

12 11. Health and Safety Code section 11170 provides that no person shall prescribe,
13 administer, or furnish a controlled substance for himself or herself.

14 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
15 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
16 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
17 or subterfuge; or (2) by the concealment of a material fact.

18 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
19 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
20 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

21 14. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess
22 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
23 subdivision (d), or any non-narcotic drug in Schedules III-V, absent a valid prescription.

24 COST RECOVERY

25 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation of the licensing
27 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

28 ///

1 22. The exact number of instances of diversion/theft by Respondent, and the full quantity
2 of controlled substances or dangerous drugs diverted/stolen, are not known, but in the course of
3 investigations by Walgreens and by the Board, the following was discovered:

4 a. In or about December 2011, Walgreens Pharmacy staff noticed a discrepancy
5 between on-hand counts of **phentermine** and what was expected based on pharmacy records. In
6 or about January 2012, actual counts of generic and brand **phentermine** tablets were off again.
7 Various security measures were implemented to better monitor the **phentermine** supplies. Based
8 on monitoring of continued losses, it was determined that Respondent was one of two employees
9 handling the affected drug stock(s) during the date range(s) on which discrepancies appeared.

10 b. On or about May 4, 2012, video surveillance revealed Respondent taking brand
11 or generic **phentermine** tablets from the stock container(s) in the pharmacy.

12 c. On or about May 8, 2012, Respondent was interviewed by Walgreens staff, and
13 she confessed to taking and self-administering **phentermine**, **phendimetrazine**, and **lorazepam**.
14 At least some of the diverted drugs were consumed while Respondent was on duty. Though she
15 could not be specific about the total quantities taken or consumed, Respondent admitted to taking
16 at least ninety (90) tablets of **phentermine** over the prior 6-8 months, at least twenty (20) tablets
17 of **phendimetrazine** over the prior 2 months, and at least six (6) tablets of **lorazepam** over the
18 prior 3 months. On or about July 12, 2012, in an interview with Board Inspector(s), Respondent
19 confirmed the theft and self-use of **phentermine**, **phendimetrazine**, and **lorazepam**. She said
20 that she had diverted **phentermine** from Walgreens for self-use for about a year. She admitted to
21 never having any valid prescriptions for any of the medications diverted. She also admitted that
22 she had previously been a heavy drinker of alcohol, though she had quit drinking.

23 d. On or about July 6, 2012, Walgreens submitted a revised Report of Theft or
24 Loss of Controlled Substances (Form DEA-106) to the Drug Enforcement Administration (DEA)
25 and to the Board, in which Walgreens reported the following losses to employee pilferage: 152
26 tablets of **phentermine 15mg**, 56 tablets of **phentermine 30mg**, 872 tablets of **phentermine**
27 **37.5mg**, 12 tablets of **phendimetrazine 105mg**, and 43 tablets of **lorazepam 0.5mg**.

28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

3 23. Respondent is subject to discipline under section 4301(f) of the Code, in that
4 Respondent, as described in paragraphs 21 and 22 above, committed numerous acts involving
5 moral turpitude, dishonesty, fraud, deceit, or corruption.

6 SECOND CAUSE FOR DISCIPLINE

7 (Self-Administration of Controlled Substance)

8 24. Respondent is subject to discipline under section 4301(h) of the Code, in that
9 Respondent, as described in paragraphs 21 and 22 above, administered one or more controlled
10 substances to herself, including **phentermine**, **phendimetrazine**, and **lorazepam** products.

11 THIRD CAUSE FOR DISCIPLINE

12 (Furnishing of Controlled Substance(s))

13 25. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
14 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described
15 in paragraphs 21 and 22 above, furnished to herself or another, and/or conspired to furnish, and/or
16 assisted or abetted furnishing of, a controlled substance/dangerous drug, without a prescription.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Possession of Controlled Substance(s))

19 26. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section
20 4060 of the Code, and/or Health and Safety Code section(s) 11350 and/or 11377, in that
21 Respondent, as described in paragraphs 21 and 22 above, possessed, conspired to possess, and/or
22 assisted in or abetted possession of, one or more controlled substance(s), without a prescription.

23 FIFTH CAUSE FOR DISCIPLINE

24 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

25 27. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code,
26 and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs
27 21 and 22 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a
28 controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

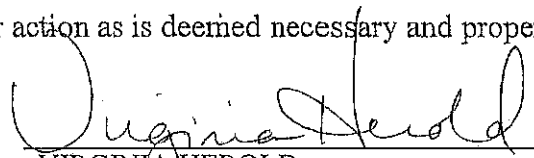
3 28. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 21 to 27 above, engaged in unprofessional conduct.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacy Technician License No. TCH 6493, issued to
9 Renee Michelle Fowlston (Respondent);
- 10 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
11 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 12 3. Taking such other and further action as is deemed necessary and proper.

13 DATED: 2/12/13



14 VIRGINIA HEROLD
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant

20 SF2012403279
21 40634359.doc