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

In the Matter of the Accusation Against:

Case No. 4626

MIKE GRANVILLE

791 Oleander Street Hemet, CA 92543

Pharmacy Technician License No. TCH 69080

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 14, 2013.

It is so ORDERED on September 12, 2013.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

STANLEY C. WEISSER Board President

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1	KAMALA D. HARRIS						
2	Attorney General of California JAMES M. LEDAKIS Supervising Deputy Attorney Company						
3	Supervising Deputy Attorney General DAVID E. HAUSFELD Deputy Attorney General State Bar No. 110639 110 West "A" Street, Suite 1100 San Diego, CA 92101 P.O. Box 85266						
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6	San Diego, CA 92186-5266 Telephone: (619) 645-2025						
7	Facsimile: (619) 645-2061 Attorneys for Complainant						
8		NDE THE					
9	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS						
10		CALIFORNIA					
11	In the Matter of the Accusation Against:	Case No. 4626					
12	MIKE ANTHONY GRANVILLE	STIPULATED SURRENDER OF					
13	791 Oleander Street Hemet, CA 92543	LICENSE AND ORDER					
14	Pharmacy Technician Registration No. TCH						
15	69080						
16	Respondent						
17							
18	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this						
19	proceeding that the following matters are true:						
20	<u>PARTIES</u>						
21	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.						
22 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 David E. Hausfeld, Deputy Attorney						
25	General.						
26	2. Mike Anthony Granville (Respondent) is representing himself in this proceeding and						
27	has chosen not to exercise his right to be represented by counsel.						
28	3. On or about May 25, 2006, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 69080 to Mike Anthony Granville (Respondent). The Pharmacy						
	105134441011110. 1C11 09060 to wilke Anthony	Granville (Respondent). The Pharmacy					

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Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4626 and will expire on August 31, 2013, unless renewed.

JURISDICTION

4. Accusation No. 4626 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on May 29, 2013. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 4626 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 4626. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 4626, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician Registration No. TCH 69080 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacy Technician Registration without further process.

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CONTINGENCY

- 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 he may not withdraw his 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.
- 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. 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 69080, issued to Respondent Mike Anthony Granville, 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 of Pharmacy.

- 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.
- 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent may not apply for any license, permit, or registration from the Board for three (3) years from the effective date of this decision. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, including, but not limited to certification by a nationally recognized body and all of the charges and allegations contained in Accusation No. 4626 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition. Respondent is required to report this surrender as disciplinary action.
- 5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$2,397.50 prior to issuance of a new or reinstated license.
- 6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 4626 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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: 7/6/13

MIKE ANTHONY GRANVILLE Respondent

1	ENDORSEMENT					
2	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted					
3	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.					
4	Dated: 7/9/13 Respectfully submitted,					
5	Kamala D. Harris					
6	Attorney General of California JAMES M. LEDAKIS					
7	Supervising Deputy Attorney General					
8	DAVID E. HALISFELD					
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10	Deputy Attorney General Attorneys for Complainant					
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Exhibit A

Accusation No. 4626

1	Kamala D. Harris						
2	Attorney General of California JAMES M. LEDAKIS						
3	Supervising Deputy Attorney General DAVID E. HAUSFELD						
4	Deputy Attorney General State Bar No. 110639						
5	110 West "A" Street, Suite 1100	*					
	San Diego, CA 92101 P.O. Box 85266						
6	San Diego, CA 92186-5266 Telephone: (619) 645-2025						
. 7	Facsimile: (619) 645-2061 Attorneys for Complainant						
8)E TUE					
9	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS						
10	STATE OF C	CALIFORNIA					
11							
.12	In the Matter of the Accusation Against:	Case No. 4626					
13	MIKE ANTHONY GRANVILLE 791 Oleander Street	ACCUSATION					
14	Hemet, CA 92543						
15	Pharmacy Technician Registration No. TCH 69080	·					
16	Respondent.						
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18	Complainant alleges:						
19	PAR	TIES					
20	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 May 25, 2006, the Board of Pharmacy issued Pharmacy Technician						
23	Registration Number TCH 69080 to Mike Anthony Granville (Respondent). The Pharmacy						
24	Technician Registration was in full force and effect at all times relevant to the charges brought						
25	herein and will expire on August 31, 2013, unless renewed.						
26	///	s renewed.					
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28	111						

JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.
- 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
 - 5. Section 4300, subdivision (a) of the Code states:
 - "(a) Every license issued may be suspended or revoked."
 - 6. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

7. Section 482 of the Code states, in pertinent part:

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

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

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

8. 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.

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

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

10. Section 4059 of the Code states, in pertinent part, that a person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

11. Section 4060 of the Code states:

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

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.

12. Section 4301 of the Code states:

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

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(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

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

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

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

(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.

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13.	Health and	d Safety	Code	section	11170	provides	that no	person	shall	prescri	be
administer.	or furnish	a contro	lled si	ubstance	for hi	mself.					

- 14. Health and Safety Code section 11173(a) provides that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.
- 15. Health and Safety Code section 11350 provides that every person who possesses a controlled substance, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in the state prison.

REGULATORY PROVISIONS

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

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

- 17. California Code of Regulations, title 16, section 1769, states, in pertinent part:
- (b) When considering the suspension or revocation of a facility or a personal license on the ground that the licensee or the registrant has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his present eligibility for a license will consider the following criteria:
 - (1) Nature and severity of the act(s) or offense(s).
 - (2) Total criminal record.
 - (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
 - (5) Evidence, if any, of rehabilitation submitted by the licensee.

C)

 COST RECOVERY

18. Section 125.3 of the Code provides, 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 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUGS

19. Hydrocodone/acetaminophen, also known by the brand names Vicodin, Vicodin ES, Norco, Zydone, Maxidone, Lortab, Lorcet, Hydrocet, Co-Gesic, and Anexsia, is a narcotic Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4), and is a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is used as a narcotic analgesic in the relief of pain.

FIRST CAUSE FOR DISCIPLINE

(October 20, 2011 Criminal Conviction for Burglary and Possession for Sale)

- 20. Respondent is subject to disciplinary action under sections 490 and 4301, subdivisions (k) and (l), in that he was convicted of crimes that are substantially related to the qualifications, functions, and duties of a pharmacy technician. The circumstances are as follows:
- a. On or about October 20, 2011 in a criminal proceeding entitled *People of the State of California v. Michael Anthony Granville*, Riverside County Superior Court case number SWF1101179, Respondent was convicted by his guilty plea of a felony violation of Penal Code section 459, burglary and a felony violation of Health and Safety Code section 11351, possession of a controlled substance for sale.
- b. The facts that led to the conviction are that Respondent was employed as a pharmacy technician at the Target Store Pharmacy in Hemet, California. Due to potential discrepancies in the inventory control of hydrocodone/acetaminophen at the Hemet store, internal investigators for Target conducted an investigation. On April 15, 2011 Respondent was observed by a surveillance camera taking tablets from store supplies and putting them in his pocket. When

Respondent left the pharmacy for a break he was detained by the investigators and asked to empty his pockets. He produced a plastic bag containing 245 hydrocodone/acetaminophen (aka APAP) 10/325¹ tablets and five #6 amoxicillin 500 mg capsules.

- c. Respondent was interviewed by the Target investigators and the Hemet Police Department. During the interviews, Respondent admitted to stealing hydrocodone/APAP, generic for Norco, tablets from the Target pharmacy without payment. Respondent stated that he had been stealing the tablets since December of 2010. Respondent admitted that he stole the tablets approximately three times during each work week, since December, by taking approximately 3/4 of a 500 count bottle each time. He admitted that he initially took the tablets for his personal consumption, but then began selling them for \$1.00 per tablet. He estimated he had made \$10,000.00 by selling the tablets. He also admitted to using 12 tablets per day.
- d. Target's inventory control review showed that the pharmacy was missing at least 40,929 tablets of hydrocodone/APAP 10/325.
- e. As a result of his conviction, Respondent was sentenced to three years of supervised probation, serve 180 days in county jail on a weekender program, ordered to pay fees and fines, and enroll in a drug treatment program.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Dishonesty and Deceit)

21. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (f) of the Code in that Respondent's theft from the Target Pharmacy constitutes dishonesty and deceit, as set forth in paragraph 20, above, incorporated herein by reference.

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¹ Hydrocodone/acetaminophen (aka APAP) 10/3·25 designation refers to the amount present in mgs of hydrocodone (the first number) and acetaminophen (the second number) for that formulation.

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THIRD CAUSE FOR DISCIPLINE

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

22. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (h) of the Code in that Respondent illegally administered a controlled substance to himself, as set forth in paragraph 20, above, incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Violating Laws Regulating Controlled Substances)

23. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (j) of the Code in that he violated California Health and Safety Code sections 11173, subdivision (a), 11170, and 11350, subdivision (a), as set forth in paragraph 20, above, incorporated herein by reference.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Violation of Chapter)

24. Respondent is subject to disciplinary action for unprofessional conduct under section 4301, subdivision (o) of the Code in that Respondent violated the Pharmacy Act by furnishing a dangerous drug to himself and others in violation of Code section 4059 and illegally possessing a controlled substance in violation of Code section 4060, as set forth in paragraph 20, above, incorporated herein by reference.

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 Registration Number TCH 69080, issued to Mike Anthony Granville;
- 2. Ordering Mike Anthony Granville 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;

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1	3. Taking such other and further	notion as described
1	1 aking such other and further	r action as deemed necessary and proper.
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4	DATED: 5/9/13	(Jugina Land
. 5		VIRGINIA HEROLD Executive Officer
6		Board of Pharmacy Department of Consumer Affairs
7		State of California Complainant
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