

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

In the Matter of the Accusation Against:

Case No. 4655

MATTHEW VUE
aka MATHEW VUE
8346 Lancraft Drive
Sacramento, CA 95823

Pharmacy Technician Registration No.
TCH 86594

Respondent.

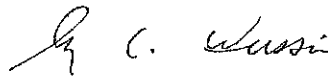
DECISION AND ORDER

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 July 21, 2014.

It is so ORDERED on July 16, 2014.

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 KENT D. HARRIS
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7 *Attorneys for Complainant*

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

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13 **MATTHEW VUE**
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15 **8346 Lancraft Drive**
16 **Sacramento, CA 95823**

17 **Pharmacy Technician Registration**
18 **No. 86594**

19 **Respondent.**

20 Case No. 4655

21 OAH No. 2013090470

22 **STIPULATED SURRENDER OF**
23 **LICENSE AND ORDER**

24 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
25 entitled proceedings that the following matters are true:

26 PARTIES

27 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
28 ("Board"), Department of Consumer Affairs. She brought this action solely in her official
capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of
California, by Leslie A. Burgermyer, Deputy Attorney General.

2. Matthew Vue, also known as Mathew Vue, ("Respondent") is representing himself in
this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about November 20, 2008, the Board issued Pharmacy Technician Registration
No. 86594 to Respondent. The Pharmacy Technician Registration was in full force and effect at

1 all times relevant to the charges brought in Accusation No. 4655 and will expire on August 31,
2 2014, unless renewed.

3 JURISDICTION

4 4. Accusation No. 4655 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 August 21, 2013. Respondent timely filed his Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 4655 is attached as Exhibit A and incorporated by
8 reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 4655. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of his legal rights in this matter, including the right to a
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
15 his own expense; the right to confront and cross-examine the witnesses against him; the right to
16 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
17 the attendance of witnesses and the production of documents; the right to reconsideration and
18 court review of an adverse decision; and all other rights accorded by the California
19 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 understands that the charges and allegations in Accusation No. 4655, if
24 proven at a hearing, constitute cause for imposing discipline upon his Pharmacy Technician
25 Registration.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28 basis for the charges in the Accusation and that those charges constitute cause for discipline.

1 Respondent hereby gives up his right to contest that cause for discipline exists based on those
2 charges.

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

5 RESERVATION

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

10 CONTINGENCY

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

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

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

1 7. Responsible may not apply for any license, permit, or registration from the Board for
2 three (3) years from the effective date of this decision.

3 ACCEPTANCE

4 I have carefully read the Stipulated Surrender of License and Order. I understand the
5 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
6 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
7 be bound by the Decision and Order of the Board of Pharmacy.

8
9 DATED:

6-25-2014



10 MATTHEW VUE,
11 aka MATHEW VUE
12 Respondent

13 ENDORSEMENT

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

16 DATED:

6-25-2014

Respectfully submitted,

17 KAMALA D. HARRIS
18 Attorney General of California
19 KENT D. HARRIS
20 Supervising Deputy Attorney General



21 LESLIE A. BURGERMYER
22 Deputy Attorney General
23 Attorneys for Complainant

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Exhibit A

Accusation No. 4655

1 KAMALA D. HARRIS
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 LESLIE A. BURGERMYER
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8346 Lancraft Drive
14 Sacramento, CA 95823

ACCUSATION

15 Pharmacy Technician Registration
No. TCH 86594

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about November 20, 2008, the Board issued Pharmacy Technician Registration
24 Number TCH 86594 to Matthew Vue, also known as Mathew Vue, ("Respondent"). The
25 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
26 brought herein and will expire on August 31, 2014, unless renewed.

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JURISDICTION

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

4. Section 4300 of the Code provides, in pertinent part, that for every license issued by the Board, the Board may suspend, revoke, default, suspend judgment, place on probation, suspend the right to practice for up to one year, or take other disciplinary action which the Board, in its discretion, deems proper.

5. 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

6. 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:

(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, of any other state, or of the United States regulating controlled substances and dangerous drugs.

7. Code section 4022 states:

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

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

1 (b) Any device that bears the statement: "Caution: federal law restricts
2 this device to sale by or on the order of a _____, "Rx only," or words of
3 similar import, the blank to be filled in with the designation of the
4 practitioner licensed to use or order use of the device.

5 (c) Any other drug or device that by federal or state law can be
6 lawfully dispensed only on prescription or furnished pursuant to Section
7 4006.

8 8. Code section 4060 states:

9 No person shall possess any controlled substance, except that furnished
10 to a person upon the prescription of a physician, dentist, podiatrist,
11 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7,
12 or furnished pursuant to a drug order issued by a certified nurse-midwife
13 pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a
14 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant
15 to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or
16 444052.2. This section shall not apply to the possession of any controlled
17 substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician,
18 podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
19 nurse-midwife, nurse practitioner, or physician assistant, when in stock in
20 containers correctly labeled with the name and address of the supplier or
21 producer.

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

25 9. Health and Safety Code section 11377 provides, in pertinent part, that it is unlawful
26 to possess Schedule II controlled substances without a prescription of a physician, dentist,
27 podiatrist, or veterinarian, licensed to practice in the State of California.

28 **DRUGS**

10. **Amphetamine** is a Schedule II controlled substance as designated by Health and
Safety Code section 11055, subdivision (d)(1), and a dangerous drug within the meaning of Code
section 4022.

11. **Marijuana** is a Schedule I controlled substance as designated by Health and Safety
Code section 11054, subdivision (d)(13), and a dangerous drug within the meaning of Code
section 4022.

12. **Methamphetamine** is a Schedule II controlled substance as designated in Health
and Safety Code section 11055, subdivision (d)(2), and a dangerous drug within the meaning of
Code section 4022.

1 13. **MDMA** (3, 4-methylenedioxyamphetamine) is a Schedule I controlled
2 substance as designated in Code of Federal Regulations, Title 21, Part 1308, 51 Fed. Reg. 36552
3 (10/14/1986), and a dangerous drug within the meaning of Code section 4022. MDMA is a
4 synthetic, psychoactive drug with a chemical structure similar to the stimulant Methamphetamine
5 and the hallucinogen Mescaline. MDMA is a chemical used in **Ecstasy**, which is generally laced
6 with other ingredients such as Methamphetamine. **Molly**, short for molecule, is considered to be
7 pure MDMA, and is the powder or crystal form of MDMA.

8 14. **Mescaline** is a Schedule I controlled substance as designated in Health and Safety
9 Code section 11054, subdivision (d)(14), and a dangerous drug within the meaning of Code
10 section 4022.

11 **COST RECOVERY**

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

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Violation of Statutes Regulating Controlled Substances)**

18 16. Respondent's license is subject to disciplinary action under Code sections 4300 and
19 4301, subdivision (j), on the grounds of unprofessional conduct, in that on or about on or about
20 December 5, 2012, Respondent was in possession of Marijuana, two MDMA tablets and twelve
21 Molly tablets, without lawful prescriptions in violation of Code section 4060 and Health and
22 Safety Code section 11377. The MDMA, and Molly tablets tested Nartec¹ presumptive positive
23 for Amphetamine. Respondent admitted to a law enforcement officer that he owned the
24 Controlled Substances and used them for recreational use.

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27 ¹ Nartec is a standard presumptive test used in the field by law enforcement to obtain
28 quick results in testing an unknown substance for Methamphetamine.

