

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

In the Matter of the Accusation Against:

Case No. 4684

BRANDON DEVLIN
2492 Gibson Avenue
Clovis, CA 93611

Pharmacy Technician Registration No.
TCH 91611

Respondent.

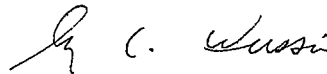
DECISION AND ORDER

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 28, 2013.

It is so ORDERED on October 23, 2013.

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 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JANSEN
Deputy Attorney General
4 State Bar No. 258229
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7 *Attorneys for Complainant*

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15 **Pharmacy Technician Registration No. TCH**
16 **91611**

17
18 Respondent.

Case No. 4684

OAH No. 4684

19
20 **STIPULATED SURRENDER OF**
21 **LICENSE AND ORDER**

22 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
23 proceeding that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Kristina T. Jansen, Deputy Attorney
28 General.

2. Brandon Devlin (Respondent) is representing himself in this proceeding and has
chosen not to exercise his right to be represented by counsel.

1 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
2 Respondent's license history with the Board of Pharmacy.

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

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

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a new application for licensure. Respondent
9 must comply with all the laws, regulations and procedures for licensure in effect at the time the
10 application or petition is filed, and all of the charges and allegations contained in Accusation No.
11 4684 shall be deemed to be true, correct and admitted by Respondent when the Board determines
12 whether to grant or deny the petition.

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

16 Respondent shall pay the Board its costs of investigation and enforcement in the amount of
17 \$1,220.00 prior to issuance of a new or reinstated license.

18 5. 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. 4684 shall be deemed
21 to 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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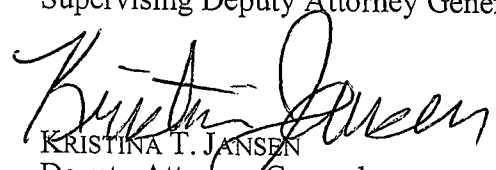
ACCEPTANCE

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: 8-22-2013 
BRANDON DEVLIN
Respondent

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
JANICE K. LACHMAN
Supervising Deputy Attorney General

KRISTINA T. JANSEN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4684

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
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Clovis, California 93611

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **91611**

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 June 5, 2009, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 91611 to Brandon Devlin (Respondent). The Pharmacy Technician
24 registration expired on June 30, 2011 and has not yet been 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 unless otherwise indicated.

1 4. Section 4300.1 of the Code states in pertinent part that the expiration of a board-
2 issued license shall not deprive the board of jurisdiction to commence or proceed with any action
3 or disciplinary proceeding against the licensee.

4 5. Section 4301 of the Code states in pertinent part that the board shall take action
5 against any holder of a license who is guilty of unprofessional conduct. Unprofessional conduct
6 shall include, but is not limited to, any of the following:

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

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

14 (l) The conviction of a crime substantially related to the qualifications, functions, and
15 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
16 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
17 substances or of a violation of the statutes of this state regulating controlled substances or
18 dangerous drugs shall be conclusive evidence of unprofessional conduct.

19 6. California Health and Safety Code section 11550(a) provides in pertinent part that no
20 person shall use, or be under the influence of any controlled substance which is...specified in
21 paragraph (1) or (2) of subdivision (d)... of Health and Safety Code section 11055. Paragraph (2)
22 of subdivision (d) of Health and Safety Code section 11055 states "Methamphetamine, its salts,
23 isomers, and salts of its isomers."

24 7. California Penal Code section 25850(a) states: "A person is guilty of carrying a
25 loaded firearm when the person carries a loaded firearm on the person or in a vehicle while in any
26 public place or in any public street in an incorporated city..."

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1 **COST RECOVERY**

2 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Unlawful Self-Administration of Controlled Substance)**

10 9. Respondent is subject to disciplinary action under section 4301, subdivision (h),
11 unprofessional conduct by administering a controlled substance to himself in a manner as to be
12 dangerous or injurious to himself and without lawful authority therefor. The circumstances are
13 that on or about April 4, 2012, at approximately 11:45 p.m. Respondent was observed by Officer
14 Jason Smoak of the Clovis Police Department walking on a sidewalk wearing a sleeveless shirt
15 despite the temperature at that time being approximately 50 degrees. Upon speaking with
16 Respondent, Officer Smoak observed that Respondent spoke rapidly, his fingers were twitching
17 uncontrollably, and his pupils were dilated. In Officer Smoak's training and experienced, he
18 recognized these signs as possible use of a controlled substance. Officer Smoak asked
19 Respondent if he would participate in preliminary tests to ascertain whether Respondent was
20 impaired. Respondent agreed. Officer Smoak checked Respondent's pupils and took
21 Respondent's pulse several times, which was 128, 130, and 132 beats per minute. At that time
22 Respondent was arrested for being under the influence of methamphetamine. Respondent then
23 admitted to Officer Smoak that he had smoked crystal meth that day. Respondent stated that he
24 was addicted to heroin and trying to quit, and a friend had told him that smoking meth would help
25 him get off heroin. A blood test was done and Respondent tested positive for methamphetamine.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Violation of Statute Regulating Controlled Substances)**

3 10. Respondent is subject to disciplinary action under section 4301, subsection (j)
4 violation of California Health and Safety Code section 11550(a), being under the influence of a
5 controlled substance, to wit, methamphetamine as set forth in paragraph 10, above.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Substantially Related Criminal Conviction)**

8 11. Respondent is subject to disciplinary action under section 4301, subsection (l) of the
9 Code in that on or about December 4, 2012, in Fresno County Superior Court, Case Number
10 M12000946 Respondent pled guilty to Penal Code section 25850(a), a misdemeanor¹, a crime
11 substantially related to the qualifications, functions and duties of being a pharmacy technician.
12 The circumstances of the crime are that on or about November 4, 2011, Officer Ryan Wade
13 observed Respondent driving a vehicle with two passengers. Respondent flicked ash from his
14 cigarette out of his window. Officer Wade therefore performed a traffic stop on the vehicle.
15 Officer Wade asked if anyone in the vehicle was on probation or parole. One of the passengers
16 was on parole for illegal transportation of narcotics, and therefore his person and the vehicle were
17 subject to search and seizure. Based on this information, Officer Wade decided to search the
18 vehicle. Respondent then informed Officer Wade that there was a loaded handgun in the trunk of
19 the vehicle. Officer Wade found the handgun, a black and silver Ruger P95 with 7 rounds in the
20 magazine. The magazine was inserted into the handgun and the handgun was wrapped in a blue
21 shirt, and concealed in the trunk by the spare tire. Respondent admitted to Officer Wade that he
22 knew it was illegal to carry a loaded weapon in his vehicle.

23 **PRAYER**

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

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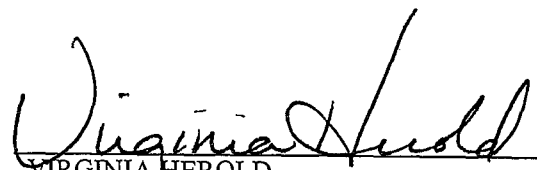
27 _____
28 ¹ Pursuant to Fresno County Superior Court docket records, in exchange for Respondent
pleading guilty in this case, the other case (described in paragraph 10 above) was dismissed.

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1. Revoking or suspending Pharmacy Technician Registration Number TCH 91611, issued to Brandon Devlin
2. Ordering Brandon Devlin 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;
3. Taking such other and further action as deemed necessary and proper.

DATED:

7/19/13



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

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