

**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**

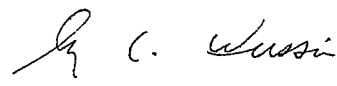
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

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  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5403  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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

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**Clovis, CA 93611**

OAH No. 4684

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

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

17  
18 Respondent.

19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
21 proceeding that the following matters are true:

22 **PARTIES**

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

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

3. On or about June 5, 2009, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 91611 to Brandon Devlin (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4684 and expired on June 30, 2011.

## JURISDICTION

4. Accusation No. 4684 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 July 26, 2013. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 4684 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. 4684. 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. 4684, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician Registration No. TCH 91611 for the Board's formal acceptance.

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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.

## CONTINGENCY

10. 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 Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Surrender of License and Order is intended by the parties to be an 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 91611, issued to Respondent Brandon Devlin, 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

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

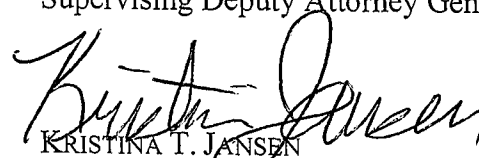
**ENDORSEMENT**

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  
3 KRISTINA T. JANSEN  
Deputy Attorney General  
4 State Bar No. 258229  
1300 I Street, Suite 125  
5 P.O. Box 944255  
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2492 Gibson Avenue  
13 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..."

27     ///

28     ///

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 experience, 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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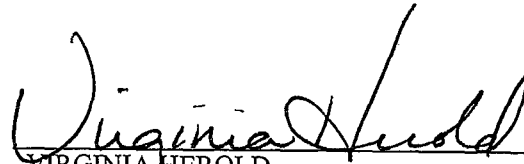
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- 1           1.     Revoking or suspending Pharmacy Technician Registration Number TCH 91611,  
2 issued to Brandon Devlin  
3           2.     Ordering Brandon Devlin to pay the Board of Pharmacy the reasonable costs of the  
4 investigation and enforcement of this case, pursuant to Business and Professions Code section  
5 125.3;  
6           3.     Taking such other and further action as deemed necessary and proper.  
7

8  
9 DATED:

7/19/13



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

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