

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

In the Matter of the Accusation Against:

MELISSA A. IMAI
45630 Classic Way
Temecula, CA 92592

Pharmacy Technician Registration No.
TCH 65321

Respondent.

Case No. 4695

OAH No. 2013110004

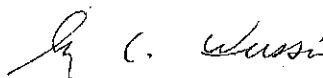
DECISION AND ORDER

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 November 19, 2014.

It is so ORDERED on November 14, 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 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **MELISSA A. IMAI**
13 **45630 Classic Way**
14 **Temecula, CA 92592**

15 **Pharmacy Technician Registration**
No. TCH 65321

16 Respondent.

Case No. 4695

OAH No. 2013110004

STIPULATED SURRENDER OF
LICENSE AND ORDER

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by David E. Hausfeld, Deputy Attorney
24 General.
- 25 2. Melissa A. Imai (Respondent) is represented in this proceeding by attorney Paul
26 Chan, whose address is 2311 Capitol Avenue, Sacramento, CA 95816.
- 27 3. On or about October 4, 2005, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 65321 to Melissa A. Imai (Respondent). The Pharmacy Technician

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 4695 and will expire on March 31, 2015, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 4695 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on September 19, 2013.
7 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 4695 is attached as Exhibit A and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and understands the
11 charges and allegations in Accusation No. 4695. Respondent also has carefully read, fully
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
13 Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 her own expense; the right to confront and cross-examine the witnesses against her; the right to
17 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
18 compel the attendance of witnesses and the production of documents; the right to reconsideration
19 and court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 4695, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
26 Registration No. TCH 65321 for the Board's formal acceptance.

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28 ///

1 9. Respondent understands that by signing this stipulation she enables the Board to issue
2 an order accepting the surrender of her Pharmacy Technician Registration without further
3 process.

4 CONTINGENCY

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

14 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
16 thereto, shall have the same force and effect as the originals.

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

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

25 ORDER

26 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 65321, issued
27 to Respondent Melissa A. Imai, is surrendered and accepted by the Board of Pharmacy.

1 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
2 of the surrendered license by the Board shall constitute the imposition of discipline against
3 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
4 Respondent's license history with the Board of Pharmacy.

5 2. Respondent shall lose all rights and privileges as a pharmacy technician in California
6 as of the effective date of the Board's Decision and Order.

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

9 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
10 California, the Board shall treat it as a new application for licensure. Respondent must comply
11 with all the laws, regulations and procedures for licensure in effect at the time the application or
12 petition is filed, and all of the charges and allegations contained in Accusation No. 4695 shall be
13 deemed to be true, correct and admitted by Respondent when the Board determines whether to
14 grant or deny the application or petition.

15 5. Respondent shall pay the Board its costs of investigation and enforcement in the
16 amount of \$6,409.50 prior to issuance of a new or reinstated license.

17 6. 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 7. Respondent shall satisfy all requirements applicable to that license as of the date the
20 application is submitted to the board, including, but not limited to certification by a nationally
21 recognized body prior to the issuance of a new license. Respondent is required to report this
22 surrender as disciplinary action.

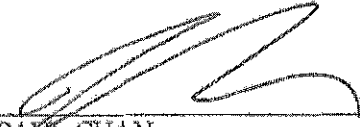
23
24 ACCEPTANCE

25 I have carefully read the above Stipulated Surrender of License and Order and have fully
26 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have
27 on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and
28

1 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
2 of the Board of Pharmacy.

3
4 DATED: 11/02/14 
5 MELISSA A. IMAI
6 Respondent

7 I have read and fully discussed with Respondent Melissa A. Imai the terms and conditions
8 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
9 and content.

10 DATED: 10/20/14 
11 PAUL CHAN
12 Attorney for 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: Respectfully submitted,
17 KAMALA D. HARRIS
18 Attorney General of California
19 JAMES M. LEDAKIS
20 Supervising Deputy Attorney General

21 DAVID E. HAUSFELD
22 Deputy Attorney General
23 *Attorneys for Complainant*

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1 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
2 of the Board of Pharmacy.

3
4 DATED: _____

MELISSA A. IMAI
Respondent

6 I have read and fully discussed with Respondent Melissa A. Imai the terms and conditions
7 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
8 and content.

9 DATED: _____

10 PAUL CHAN
Attorney for Respondent

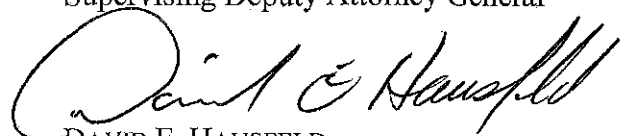
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12 **ENDORSEMENT**

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

15 Dated: 10/20/14

Respectfully submitted,

17 KAMALA D. HARRIS
Attorney General of California
18 JAMES M. LEDAKIS
Supervising Deputy Attorney General

19 

20 DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4695

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 DAVID E. HAUSFELD
Deputy Attorney General
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11 In the Matter of the Accusation Against:

Case No. 4695

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13 **45630 Classic Way**
14 **Temecula, CA 92592**

ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **65321**

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.

23 2. On or about October 4, 2005, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 65321 to Melissa A. Imai (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on March 31, 2015, unless renewed.

27 ///

28 ///

1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 4300, subdivision (a) of the Code states:

6 "Every license issued may be suspended or revoked."

7 5. Section 4300.1 of the Code states:

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

13 STATUTORY PROVISIONS

14 6. Section 4059 of the Code provides that a person may not furnish any dangerous drug
15 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
16 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device,
17 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
18 naturopathic doctor pursuant to Section 3640.7.

19 7. Section 4060 of the Code states:

20 No person shall possess any controlled substance, except that furnished to a
21 person upon the prescription of a physician, dentist, podiatrist, optometrist,
22 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
23 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
24 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant
25 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a
26 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.

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

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8. 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:

....

(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.

....

(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.

....

(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.

....

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

10. Health and Safety Code section 11171 provides that no person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division.

11. 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.

COST RECOVERY

12. Section 125.3 of the Code states, 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.

1 **DRUG**

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

7 **FACTS**

8 14. Respondent was employed as a Pharmacy Technician at the Costco Pharmacy, store
9 #677 in Burbank, California from July 25, 2007 through May 6, 2011. Costco terminated
10 Respondent following an investigation into the attempted renewal of her Hydrocodone/APAP
11 7.5-750 #120 (Vicodin) prescription.

12 15. On April 29, 2011, while on a break from her duties at Costco, Respondent
13 telephoned the Pharmacy with a prescription refill for her Vicodin prescription, pretending to be
14 someone from her prescribing doctor's office. Respondent's co-worker, who took her call,
15 recognized Respondent's voice. She contacted the prescribing doctor's office and was informed
16 that the doctor's office had not called in a refill and in fact a refill had not yet been authorized.

17 16. On May 2, 2011, respondent wrote and signed a "Letter of Apology" to the manager
18 of the Costco admitting that she had called in her own refill.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct – Dishonesty, Fraud, Deceit)**

21 17. Respondent is subject to disciplinary action for unprofessional conduct under section
22 4301(f) of the Code, in that Respondent called in a refill of her own prescription for Vicodin, in
23 violation of Health and Safety Code section 11173 (a), as detailed in paragraphs 14-16 above,
24 incorporated herein by reference.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct – Violation of Chapter)**

27 18. Respondent is subject to disciplinary action for unprofessional conduct under section
28 4301(o) of the Code, in that Respondent called in a refill of her own prescription for Vicodin, in

1 violation of Health and Safety Code section 11173 (a), as detailed in paragraphs 14-16 above,
2 incorporated herein by reference.

3 PRAYER

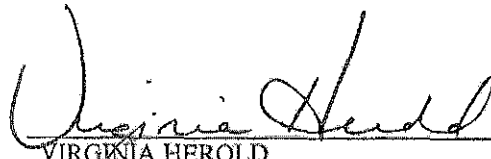
4 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Pharmacy Technician Registration Number TCH 65321,
7 issued to Melissa A. Imai;

8 2. Ordering Melissa A. Imai to pay the Board of Pharmacy the reasonable costs of the
9 investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3;

11 3. Taking such other and further action as deemed necessary and proper.

12
13
14 DATED: 9/6/13



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

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