

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

In the Matter of the Accusation Against:

LEEAH JEAN BANKS
865 San Pablo Way
Duarte, CA 91010

Pharmacy Technician License No.
TCH 57721

Respondent.

Case No. 4704

OAH No. 2014100469

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 16, 2015.

It is so ORDERED on September 16, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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8 **BEFORE THE**
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9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4704

11 **LEEAH JEAN BANKS**
12 **865 San Pablo Way**
13 **Duarte, CA 91010**

OAH No. 2014100469

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Pharmacy Technician License No.
15 TCH 57721

16 Respondent.
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 Gillian E. Friedman, Deputy Attorney
24 General.

25 2. Leeah Jean Banks (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

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3. On or about July 22, 2004, the Board of Pharmacy issued Pharmacy Technician License No. TCH 57721 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 4704 and will expire on October 31, 2015, unless renewed.

JURISDICTION

4. Accusation No. 4704 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 23, 2014. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4704 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. 4704. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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. 4704, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician License No. TCH 57721 for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician License 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 she may not withdraw her 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 License No. TCH 57721, issued to Respondent Leeah Jean Banks, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacy Technician License 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 surrenders pharmacy technician license number TCH 57721 as of the
6 effective date of this decision. Respondent shall relinquish her pharmacy technician license to the
7 Board within ten (10) days of the effective date of this decision. The surrender of Respondent's
8 license and the acceptance of the surrendered license by the board shall constitute the imposition
9 of discipline against Respondent.

10 4. Respondent understands and agrees that if she ever files an application for licensure
11 or a petition for reinstatement in the State of California, the Board shall treat it as a new
12 application for licensure.

13 5. Respondent may not apply for any license, permit, or registration from the board for
14 three (3) years from the effective date of this decision. Respondent stipulates that should she
15 apply for any license from the board on or after the effective date of this decision, all allegations
16 set forth in the accusation shall be deemed to be true, correct and admitted by Respondent when
17 the Board determines whether to grant or deny the application. Respondent shall satisfy all
18 requirements applicable to that license as of the date the application is submitted to the board,
19 including, but not limited to certification by a nationally recognized body prior to the issuance of
20 a new license. Respondent is required to report this surrender as disciplinary action.

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6. Respondent stipulates that should she apply for any license from the board on or after the effective date of this decision, investigation and prosecution costs in the amount of \$7,336.00 shall be paid to the board prior to issuance of the license.

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 License. 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: 7/15/2015


LEEAH JEAN BANKS
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: 7/15/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4704

1 KAMALA D. HARRIS
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2 MARC D. GREENBAUM
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9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4704

11
12 **LEEAH JEAN BANKS**
43302 7th Street East
13 Lancaster, CA 93535

ACCUSATION

14 Pharmacy Technician License No.
15 TCH 57721

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 July 22, 2004, the Board of Pharmacy issued Pharmacy Technician
23 License Number TCH 57721 to Leeah Jean Banks (Respondent). The Pharmacy Technician
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on October 31, 2015, unless renewed.

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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 unless otherwise indicated.

4. Section 4300 subdivision (a) of the Code states: "Every license issued may be suspended or revoked."

5. 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.

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:

(a) Gross immorality.

...

(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.

....

7. 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.

8. 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.

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9. Health and Safety Code section 11173 (a) states “[n]o 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

10. 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

11. Dilaudid, a brand name for Hydromorphone, which is a Schedule II controlled substance, a dangerous drug pursuant to Code section 4022, and is used to treat moderate to severe pain.

12. Patient Controlled Analgesia (PCA) is a means for a patient to self-administer pain medications intravenously themselves by using a computerized pump, which introduces specific doses into an intravenous line.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct- Possession of Controlled Substance without a Prescription)

13. Respondent is subject to disciplinary action under section Business and Professions Code sections 4301 (f), (g), (o) and 4060 for unprofessional conduct in that she engaged in acts that constitute dishonesty and/or corruption, that are in violation of any statutes regulating controlled substances and dangerous drugs, and/or that prohibit a person from possessing any controlled substance except that furnished with a prescription. The circumstances are as follows:

14. On or about September 30, 2011, at 2258 hours, while working as a pharmacy technician on the 8th Floor of UCLA Medical Center, located at 662 Gayley Avenue, Los Angeles, Respondent accessed a hydromorphone 50mg/50ml PCA pocket in the Intensive Care Unit medication room without authorization. Subsequent testing of the contents of the PCA pocket after it had been removed by Respondent showed that it no longer contained hydromorphone.

15. On or about October 1, 2011, at 0323 hours, Respondent removed and possessed a hydromorphone 50mg/5ml amp from the 6th floor of UCLA Medical Center Pyxis Medstation, after her shift without authorization. A security video tape from the medical center showed Respondent preparing a hydromorphone PCA syringe. Testing of the PCA syringe after it had been removed by Respondent indicated that it no longer contained hydromorphone.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct- Prohibition on Prescribing, Furnishing, Controlled Substance for Self)

16. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code in that on or about September 30, 2011 and October 1, 2011, while working as a pharmacy technician on the 8th Floor of UCLA Medical Center, located at 662 Gayley Avenue, Los Angeles, Respondent knowingly violated Business and Professions Code sections 4059 and 4060 and Health and Safety Code section 11170 in that she possessed dangerous drugs/controlled

1 substances without authorized prescriptions. Such conduct is substantially related to the
2 qualifications, duties, and functions of a pharmacy technician. The circumstances are set forth
3 above in paragraphs 14 and 15 as though set forth fully herein.

4 THIRD CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct -Obtained Controlled Substance by Fraud, Deceit, and Subterfuge)

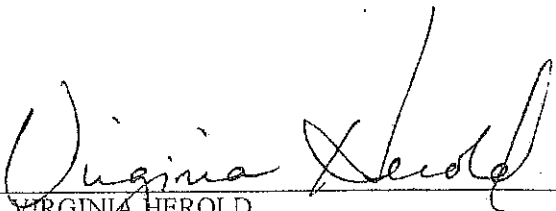
6 17. Respondent is subject to disciplinary action under section Health and Safety Code
7 section 11173 (a) in that on or about September 30, 2011 and October 1, 2011, while working as a
8 pharmacy technician on the 8th Floor of UCLA Medical Center, located at 662 Gayley Avenue,
9 Los Angeles, Respondent obtained controlled substances by fraud, deceit or subterfuge. The
10 circumstances are set forth above in paragraphs 14 and 15 as though set forth fully herein.

11 PRAYER

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

- 14 1. Revoking or suspending Pharmacy Technician License Number TCH 57721, issued
15 to Leeah Jean Banks
- 16 2. Ordering Leeah Jean Banks to pay the Board of Pharmacy the reasonable costs of the
17 investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21
22 DATED: 5/10/14


23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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