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

In the Matter of the Accusation Against:

Case No. 4711

OAH No. 2014101066

RYAN M. HUDAK 10117 Gunn Ave. #B3 Whittier, CA 90605

Pharmacy Technician Registration No. TCH 116376

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Surrender 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 22, 2015.

It is so ORDERED on July 15, 2015.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

Amarylis Gutierrez Board President

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1	Kamala D, Harris			
2	Attorney General of California THOMAS L. RINALDI			
3	Supervising Deputy Attorney General M. TRAVIS PEERY			
4	Deputy Attorney General State Bar No. 261887			
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013			
б	Telephone: (213) 897-0962 Facsimile: (213) 897-2804			
7	Attorneys for Complainant			
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS			
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
10	In the Matter of the Accusation Against: Case No. 4711			
11	RYAN M. HUDAK OAH No. 2014101066			
12	10117 Gunn Ave, #B3STIPULATED SURRENDER OFWhittier, CA 90605STIPULATED SURRENDER OF			
13	Pharmacy Technician Registration No. TCH LICENSE AND ORDER 116376			
14	Respondent.			
15				
16	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-			
17	entitled proceedings that the following matters are true:			
18	PARTIES			
19	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.			
20	She brought this action solely in her official capacity and is represented in this matter by Kamala			
21	D. Harris, Attorney General of the State of California, by M. Travis Peery, Deputy Attorney			
22	General,			
23	2. Ryan M. Hudak (Respondent) is representing himself in this proceeding and has			
24	chosen not to exercise his right to be represented by counsel.			
25	3. On or about October 20, 2011, the Board of Pharmacy issued Pharmacy Technician			
26	Registration No. TCH 116376 to Respondent. The Pharmacy Technician Registration was in full			
27	force and effect at all times relevant to the charges brought in Accusation No. 4711 and will			
28	expire on July 31, 2015, unless renewed.			
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1	Stipulated Surrender of License (Case No. 4711)			

Stipulated Surrender of License (Case No. 4711)

JURISDICTION

4. Accusation No. 4711 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 September 23, 2014. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 4711 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

8 5. Respondent has carefully read, and understands the charges and allegations in
9 Accusation No. 4711. Respondent also has carefully read, and understands the effects of this
10 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.

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

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation
No, 4711, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
Registration No. TCH 116376 for the Board's formal acceptance.

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.
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CONTINGENCY

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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.

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

<u>ORDER</u>

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 116376, issued to Respondent, is surrendered and accepted by the Board of Pharmacy.

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

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

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

4. If Respondent ever applies for licensure or petitions for reinstatement in the State of 5 California, the Board shall treat it as a new application for licensure. 6

5. Respondent may not apply for any license, permit, or registration from the Board for 7 three (3) years from the effective date of this decision. Respondent stipulates that should he apply 8 for any license from the Board on or after the effective date of this decision, all allegations set 9 forth in the Accusation No. 4711 shall be deemed to be true, correct, and admitted by Respondent 10 when the Board determines whether to grant or deny the application. Respondent shall satisfy all 11 requirements applicable to that license as of the date the application is submitted to the Board. 12 including, but not limited to, certification by a nationally recognized body prior to the issuance of 13 a new license. Respondent is required to report this surrender as disciplinary action. 14

6. Respondent shall pay the agency its costs of investigation and enforcement in the 15 amount of \$4,115.00 prior to issuance of a new or reinstated license. 16

7. If Respondent should ever apply or reapply for a new license or certification, or 17 petition for reinstatement of a license, by any other health care licensing agency in the State of 18 California, all of the charges and allegations contained in Accusation, No. 4711 shall be deemed 19 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any 20 other proceeding seeking to deny or restrict licensure. 21

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Stipulated Surrender of License (Case No. 4711)

FAITH_LUTHERAN

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1	ACCEPTANCE		
2	I have carefully read the Stipulated Surrender of License and Order. I understand the		
3	stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this		
4	Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to		
5	be bound by the Decision and Order of the Board of Pharmacy.		
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7	DATED: 06/14/15		
8	RYAN M. HÜDAK Respondent		
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10	ENDORSEMENT		
11	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted		
12	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.		
13			
14	Dated: 6-16-15 Respectfully submitted,		
15	KAMALA D. HARRIS Attorney General of California		
16	THOMAS L. RINALDI Supervising Deputy Attorney General		
17			
18	All The second Descended		
19	M. TRAVIS PEER Deputy Attorney General Attorneys for Complainant		
20	Attorneys for complainant		
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Exhibit A

Accusation No. 4711

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1	1)		
1	KAMALA D. HARRIS Attorney General of California		
2	GREGORY J. SALUTE Supervising Deputy Attorney General		
3	M. TRAVIS PEERY Deputy Attorney General		
4	State Bar No. 261887 300 So. Spring Street, Suite 1702	· ·	
5	Los Angeles, CA 90013 Telephone: (213) 897-0962		
6	Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10]	
11	In the Matter of the Accusation Against:	Case No. 4711	
12 13	RYAN M. HUDAK 10117 Gunn Ave. #B3 Whittier, CA 90605	ACCUSATION	
14	Pharmacy Technician Registration		
15	No. TCH 116376		
16	Respondent.		
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18	Complainant alleges:		
19		TIES	
20		s this Accusation solely in her official capacity	
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22	 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. On or about October 20, 2011, the Board of Pharmacy (Board) issued Pharmacy 		
23	Technician Registration No. TCH 116376 to Ryan M. Hudak (Respondent). The Pharmacy		
24	Technician Registration was in full force and effe		
25	herein and will expire on July 31, 2015, unless re	-	
26	JURISDICTION		
27		e Board under the authority of the following	
28	laws. All section references are to the Business a		
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, li		Accusation	

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STATUTORY PROVISIONS

Section 490 states, in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a
board may suspend or revoke a license on the ground that the licensee has been convicted of a
crime, if the crime is substantially related to the qualifications, functions, or duties of the business
or profession for which the license was issued.

7 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
8 discipline a licensee for conviction of a crime that is independent of the authority granted under
9 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
10 of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
conviction following a plea of nolo contendere. Any action that a board is permitted to take
following the establishment of a conviction may be taken when the time for appeal has elapsed, or
the judgment of conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, irrespective of a subsequent order under the
provisions of Section 1203.4 of the Penal Code."

Section 4300 provides in pertinent part, that every license issued by the Boards is
 subject to discipline, including suspension or revocation.

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Section 4300.1 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."

7. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of unprofessional
27 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
28 Unprofessional conduct shall include, but is not limited to, any of the following:

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2 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous 3 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to 4 oneself, to a person holding a license under this chapter, or to any other person or to the public, or 5 to the extent that the use impairs the ability of the person to conduct with safety to the public the 6 practice authorized by the license.

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"(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.

"(l) – The conviction of a crime substantially related to the qualifications, functions, and 11 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 12 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 13 substances or of a violation of the statutes of this state regulating controlled substances or 14 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 15 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 16 The board may inquire into the circumstances surrounding the commission of the crime, in order 17 to fix the degree of discipline or, in the case of a conviction not involving controlled substances 18 or dangerous drugs, to determine if the conviction is of an offense substantially related to the 19 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 20 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 21 of this provision. The board may take action when the time for appeal has elapsed, or the 22 judgment of conviction has been affirmed on appeal or when an order granting probation is made 23 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 24 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 25 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 26 27 indictment.

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"(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 2 federal and state laws and regulations governing pharmacy, including regulations established by 3 the board or by any other state or federal regulatory agency."

REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770 states, in pertinent part: б "For the purpose of denial, suspension, or revocation of a personal or facility license 7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a 8 crime or act shall be considered substantially related to the qualifications, functions or duties of a 9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a 10 licensee or registrant to perform the functions authorized by his license or registration in a manner 11 consistent with the public health, safety, or welfare." 12

COST RECOVERY

9. Section 125.3 states, in pertinent part, that the Board may request the administrative 14 law judge to direct a licentiate found to have committed a violation or violations of the licensing 15 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the 16 case. 17

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CONTROLLED SUBSTANCE 10.

"Marijuana," is a schedule I controlled substance as defined in Health and Safety Code 19 section 11054, subdivision (d)(13) and is categorized a dangerous drug pursuant to section 4022. 20

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

Respondent is subject to disciplinary action under sections 4301, subdivision (I) and 11. 23 490, in conjunction with California Code of Regulations, title 16, section 1770, in that 24 Respondent was convicted of a crime substantially related to the qualifications, functions or 25 duties of a pharmacy technician as follows: 26

On or about January 9, 2013, after pleading nolo contendere, Respondent was 27 a. convicted of one misdemeanor count of violating Vehicle Code Section 23152, subdivision (b) 28

[driving while having 0.08% or more, by weight, of alcohol in his blood] in the criminal
 proceeding entitled *The People of the State of California v. Ryan Matthew Hudak* (Super Ct. Los
 Angeles County, 2013, No. 2WW04604.) The Court placed Respondent on 36 months probation
 with terms and conditions.

b. The circumstances surrounding the conviction are that on or about August 26, 2012, a 5 Whittier Police Department officer conducted a traffic stop on Respondent. While speaking to 6 Respondent, the officer detected a strong odor of alcoholic beverage and Marijuana emitting from 7 the Respondent's person. The officer asked if Respondent had consumed any alcoholic beverages. 8 to which Respondent answered, "I had one beer." The officer then asked Respondent if he had 9 smoked any Marijuana, to which Respondent replied, "I had two hits." Respondent was 10 subsequently arrested for violating Vehicle Code Section 23152, subdivision (a) [driving under 11 the influence of alcohol or drugs] and Vehicle Code Section 23152, subdivision (b) [driving while 12 having 0.08% or more, by weight, of alcohol in his blood]. During the booking procedure, 13 Respondent submitted to a blood test that resulted in a blood-alcohol content level of 0.10%. 14

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

17 12. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
18 that on or about August 26, 2012, Respondent used alcohol to an extent or in a manner dangerous
19 or injurious to himself, another person, or the public, when he operated a vehicle while having a
20 0.10% blood-alcohol content. Complainant refers to, and by this reference incorporates, the
21 allegations set forth above in paragraph 11, subparagraph (b), as thought set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Use/Under the Influence of a Controlled Substance)

13. Respondent is subject to disciplinary action under section 4301, subdivision (h) and
(j), on the grounds of unprofessional conduct, in that or on about August 26, 2012, Respondent by
his own admission used and/or was under the influence of a controlled substance. Complainant
refers to, and by this reference incorporates, the allegations set forth and by this reference

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1	incorporates, the allegations set forth above in paragraph 11, subparagraph (b), as though set for	
2	in fully.	
3	FOURTH CAUSE FOR DISCIPLINE	
4	(Unprofessional Conduct/ Violation of Licensing Chapter)	
5	14. Respondent is subject to disciplinary action under section 4301, (o), in that	
6	Respondent committed acts of unprofessional conduct and/ or violated provisions of the licensing	
7	chapter. Complainant refers to, and by this reference incorporates, the allegations set forth above	
8	in paragraphs 11-13, inclusive, as though set forth fully.	
9	PRAYER	
10	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
11	and that following the hearing, the Board Issue a decision:	
12	1. Revoking or suspending Pharmacy Technician Registration No. TCH 116376, issued	
13	to Ryan M. Hudak;	
14	2. Ordering Ryan M. Hudak to pay the Board the reasonable costs of the investigation	
15	and enforcement of this case, pursuant to section 125.3; and	
16	3. Taking such other and further action as deemed necessary and proper.	
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19	DATED: <u>9/14/14</u> <u>Usinestedb</u> VIRGINIA HEROLD	
20	Executive Officer Board of Pharmacy	
21	Department of Consumer Affairs State of California	
22	Complainant	
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