

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

In the Matter of the Accusation Against:

Case No. 4738

MICHELLE J. CALDERA
16400 Gala Ave.
Fontana, CA 92337

**Pharmacy Technician Registration No. TCH
116452**

Respondent.

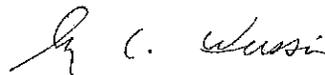
DECISION AND ORDER

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 December 15, 2014.

It is so ORDERED on December 9, 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 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
Deputy Attorney General
4 State Bar No. 169207
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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. 4738

11 **MICHELLE J. CALDERA**
12 **16400 Gala Ave.**
13 **Fontana, CA 92337**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacy Technician Registration No. TCH**
15 **116452**

16 Respondent.

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

21 PARTIES

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

26 2. Michelle J. Caldera (Respondent) is representing herself in this proceeding and has
27 chosen not to exercise her right to be represented by counsel.

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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
6 California 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 files an application for licensure or a petition for reinstatement in
10 the State of California, the Board shall treat it as a new application. Respondent may not apply
11 for any license, permit, or registration from the Board for three (3) years from the effective date
12 of this decision. Respondent stipulates that should she apply for any license from the Board on or
13 after the effective date of this decision, all allegations set forth in Accusation No. 4738 shall be
14 deemed to be true, correct and admitted by Respondent when the Board determines whether to
15 grant or deny the application. Respondent shall satisfy all requirements applicable to that license
16 as of the date the application is submitted to the Board, including, but not limited to certification
17 by a nationally recognized body prior to the issuance of a new license. Respondent is required to
18 report this surrender as disciplinary action.

19 5. Respondent shall pay the agency its costs of investigation and enforcement in the
20 amount of \$5,096.50 prior to issuance of a new or reinstated license.

21 6. If Respondent should ever apply or reapply for a new license or certification, or
22 petition for reinstatement of a license, by any other health care licensing agency in the State of
23 California, all of the charges and allegations contained in Accusation, No. 4738 shall be deemed
24 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
25 other proceeding seeking to deny or restrict licensure.

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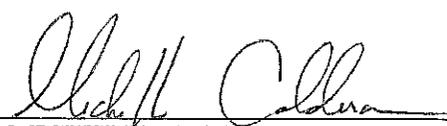
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ACCEPTANCE

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: October 7, 2014 
MICHELLE J. CALDERA
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: 10/13/14 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. 4738

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
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13 16400 Gala Ave.
14 Fontana, CA 92337

A C C U S A T I O N

15 Pharmacy Technician Registration No. TCH
116452

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 December 2, 2011, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 116452 to Michelle J. Caldera (Respondent). The Pharmacy
24 Technician Registration expired on June 30, 2013, and has not 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 “(f) The commission of any act involving moral turpitude, dishonesty, fraud,
2 deceit, or corruption, whether the act is committed in the course of relations as a
3 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

4 ...

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

10 ...

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

13 ...

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

32

33 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
34 abetting the violation of or conspiring to violate any provision or term of this chapter
35 or of the applicable federal and state laws and regulations governing pharmacy,
36 including regulations established by the board or by any other state or federal
37 regulatory agency.

38

39 “(p) Actions or conduct that would have warranted denial of a license.”

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41 ///

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **DRUGS**

4 13. Norco, a brand name for Hydrocodone/APAP 5/325 and Hydrocodone/APAP 10/325,
5 which is a Schedule III controlled substance, a dangerous drug pursuant to Code section 4022, and
6 is used to treat moderate to severe pain.

7 14. Vicodin and Vicodin ES, a brand name for Hydrocodone/APAP 5/500 and
8 Hydrocodone/APAP 7.5/750, which is a Schedule III controlled substance, a dangerous drug
9 pursuant to Code section 4022, and is used to treat moderate to severe pain.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Conviction of a Substantially Related Crime)**

12 15. Respondent is subject to disciplinary action under sections 4300, 4301,
13 subdivision (l), and 490, in conjunction with California Code of Regulations, title 16, section
14 1770, in that Respondent was convicted of a crime substantially related to the qualifications,
15 functions, and duties of a pharmacy technician.

16 a. On or about July 23, 2012, after pleading guilty, Respondent was convicted of one
17 felony count of violating Penal Code section 484(A), misdemeanor [theft of personal property] in
18 the criminal proceeding entitled *The People of the State of California vs. Michelle Caldera*,
19 (Super. Ct. San Bernardino County, No. MVA1201093). The court sentenced Respondent to a 36
20 month probation and she was required to serve 68 days in San Bernardino Co jail and pay a fine
21 including victim restitution. Respondent was also ordered to stay away from Rite Aid-15331
22 Baseline Ave Fontana CA 92335.

23 b. The circumstances surrounding the conviction are that between July 2011 and April
24 11, 2012, while working as a pharmacy technician at Rite Aid# 6482, Respondent diverted
25 prescription drugs from the pharmacy, including Hydrocodone/APAP, for self use. An audit of
26 the pharmacy, during the relevant time period, revealed a loss of the following:

27 Hydrocodone/APAP 10/325 (2050 tablets); Hydrocodone/ APAP 5/500 (1302 tablets);
28 Hydrocodone/ APAP 5/325 346 tablets; and Hydrocodone/APAP 7.5/750 (149 tablets).

1 **SECOND CAUSE FOR DISCIPLINE**

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

3 16. Respondent is subject to disciplinary action under Business and Professions
4 Code sections 4301 (f) and (j) in that while she was working as a pharmacy technician at Rite Aid
5 # 6482 (PHY 48336), located at 15331 Baseline Avenue, Fontana, California, Respondent
6 engaged in unprofessional conduct in that she engaged in acts that constitute dishonesty and/or
7 corruption, that are in violation of any statutes regulating controlled substances and dangerous
8 drugs. The circumstances are set forth above in paragraph 15(b) and incorporated herein as
9 though set forth fully herein.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct- Dispensing or Compounding**

12 **While Under the Influence of Drugs)**

13 17. Respondent is subject to disciplinary action under Business and Professions Code
14 section 4301 (h) in that while she was working as a pharmacy technician at Rite Aid # 6482,
15 Respondent administered to herself controlled substances without a lawful prescription for self
16 use, to the extent that the use impaired her ability to conduct with safety to the public the practice
17 authorized by the license. The circumstances are set forth above in paragraph 15(b) and
18 incorporated herein as though set forth fully herein.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct- Actions or Conduct that Warrant Denial of a License)**

21 18. Respondent is subject to disciplinary action under Business and Professions Code
22 section 4301 (p) in that while she was working as a pharmacy technician at Rite Aid # 6482
23 Respondent diverted and/or administered to herself controlled substances, which actions or
24 conduct would have warranted denial of a license. The circumstances are set forth above in
25 paragraph 15(b) and incorporated herein as though set forth fully herein.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct- Attempt to Unlawfully Possess a Controlled Substance)**

3 19. Respondent is subject to disciplinary action under Business and Professions Code
4 section 4301 (o) in that while she was working as a pharmacy technician at Rite Aid # 6482,
5 Respondent engaged in unprofessional conduct by violating or attempting to violate, directly or
6 indirectly, any provision of the applicable federal and state laws and regulations governing
7 pharmacy, including regulations established by the Board, when she diverted and/or administered
8 to herself controlled substances from the pharmacy for self use. The circumstances are set forth
9 above in paragraph 15(b) and incorporated herein as though set forth fully herein.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct- Unlawful Possession and**
12 **Administration of a Controlled Substance)**

13 20. Respondent is subject to disciplinary action under Health and Safety Code
14 section 11170 and Business and Professions Code section 4060 in that while she was working as a
15 pharmacy technician at Rite Aid # 6482, Respondent diverted and/or administered to herself
16 controlled substances without a lawful prescription for self use. The circumstances are set forth
17 above in paragraph 15(b) and incorporated herein as though set forth fully herein.

18 **PRAYER**

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

- 21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 116452,
22 issued to Michelle J. Caldera;
- 23 2. Ordering Michelle J. Caldera to pay the Board of Pharmacy the reasonable costs of
24 the investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3;

26 ///

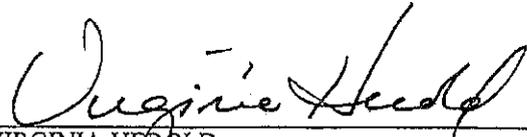
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3. Taking such other and further action as deemed necessary and proper.

DATED: 5/9/14


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

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