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

In the Matter of the Accusation Against:

Case No. 4864

LEANNE C. CONLEY AKA LEANNE MARTIN

4623 North Emerson 103 Fresno, CA 93722

Pharmacy Technician Registration No. TCH 36081

OAH No. 2013120288

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 September 12, 2014.

It is so ORDERED on September 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	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 BOARD OF PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 4864
12	LEANNE C. CONLEY AKA LEANNE MARTIN OAH No. 2013120288
13	4623 North Emerson 103 Fresno, California 93722 STIPULATED SURRENDER OF LICENSE AND ORDER
14	Pharmacy Technician Registration No. TCH 36081
15	Respondent.
16	Acopolition,
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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	<u>PARTIES</u>
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 Kristina T. Jansen, Deputy Attorney
24	General.
25	2. Leanne C. Conley, also known as (aka) Leanne Martin (Respondent) is represented in
26	this proceeding by attorney Stephen Quade, whose address is: Law Offices of Nuttall & Coleman,
27	2445 Capitol Street, Ste. 150, Fresno, CA 93721.
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	l Stipulated Surrender of License (Case No. 4864)
l	[Supulated Surveyor of English (Case 140, 4004)]

~. 3. On or about April 24, 2001, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 36081 to Respondent. The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 4864 and will expire on December 31, 2014, unless renewed.

JURISDICTION |

4. Accusation No. 4864 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 October 15, 2013.

Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4864 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- 5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4864. Respondent also has carefully read, fully discussed with counsel, 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. 4864, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician Registration No. TCH 36081 for the Board's formal acceptance.

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 Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her 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 or her counsel. 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:

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ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 36081, issued to Respondent Leanne C. Conley, 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 Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.
- 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 her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.
- 4. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent may not apply for any license, permit, or registration from the board for three (3) years from the effective date of this decision. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 4864 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

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

- 5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$6,957.50 prior to issuance of a new or reinstated license.
- 6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 4864 shall be deemed

to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure. 2 ACCEPTANCE 3 I have carefully read the above Stipulated Surrender of License and Order and have fully 4 discussed it with my attorney, Stephen Quade. I understand the stipulation and the effect it will 5 have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License 6 7 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy. 8 9 8/14/14 DATED: 10 11 AKA LEANNE MARTIN Respondent 12 I have read and fully discussed with Respondent Leanne C. Conley the terms and 13 conditions and other matters contained in this Stipulated Surrender of License and Order. I 14 approve its form and content. 15 16 DATED: 17 STEPHEN OUADE Attorney for Respondent 18 ENDORSEMENT 19 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted 20 for consideration by the Board of Pharmacy of the Department of Consumer Affairs. 21 22 Dated: August 14, 2014 Respectfully submitted, 23 KAMALA D. HARRIS Attorney General of California 24 JANICE K. LACHMAN Supervising Deputy Attorney General 25 26 KRISTINA T. JANSEN 27 Deputy Attorney General Attorneys for Complainant 28 SA2013111947 / 11429114.doc 5 Stipulated Surrender of License (Case No. 4864)

Exhibit A

Accusation No. 4864

1	Kamala D. Harris
2	Attorney General of California JANICE K. LACHMAN
3	Supervising Deputy Attorney General KRISTINA T. JANSEN
4	Deputy Attorney General State Bar No. 258229
5	1300 I Street, Suite 125
]	P.O. Box 944255 Sacramento, CA 94244-2550
6 7	Telephone: (916) 324-5403 Facsimile: (916) 327-8643 Attorneys for Complainant
8	BEFORE THE
9	BOARD OF PHARMACY
	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 4864
12	LEANNE C. CONLEY AKA LEANNE MARTIN
13	4623 North Emerson 103 Fresno, California 93722 A C C U S A T I O N
14	Pharmacy Technician Registration No. TCH
15	36081
16	Respondent.
17	
-18	Complainant alleges:
19	<u>PARTIES</u>
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 April 24, 2001, the Board of Pharmacy issued Pharmacy Technician
23	Registration Number TCH 36081 to Leanne C. Conley, also known as (aka) Leanne Martin,
24	(Respondent). The Pharmacy Technician Registration was in full force and effect at all times
25	relevant to the charges brought herein and will expire on December 31, 2014, 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 of the Code states in pertinent part:
 - (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.
 - (4) Revoking his or her license.
- (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.
 - 5. Section 4300.1 of the Code 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."

BUSINESS AND PROFESSIONS CODE PROVISIONS

6. Section 4301 of the Code states in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct. 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.
- 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.
- 8. Section 4060 of the Code states in pertinent part, that a person may not possess any controlled substance, except that furnished to a person upon the prescription of a physician.
- 9. Section 4063 of the Code states in pertinent part: "No prescription for any dangerous drug or dangerous device may be refilled except upon authorization of the prescriber. The authorization may be given orally or at the time of giving the original prescription..."
 - 10. Section 4324 of the Code states:
- "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.
- "(b) Every person who has in his or her possession any drugs secured by a forged prescription shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year."
 - 11. Section 4325 of the Code states in pertinent part:
- "(a) No person other than a physician, dentist, podiatrist, veterinarian, pharmacist, or other person authorized by law to dispense, administer, or prescribe controlled substances, or the person's agent acting under authorization by the person to print prescription blanks, and acting in the regular practice of the person's profession, shall knowingly and willfully manufacture, copy, reproduce, or possess, or cause to be manufactured, copied, reproduced, or possessed, any prescription blank that purports to bear the name, address, and federal registry or other identifying

information of a physician, dentist, podiatrist, veterinarian, or other person authorized by law to dispense, administer, or prescribe controlled substances."

12. Section 4022 of the Code states:

"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
- (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

HEALTH AND SAFETY CODE PROVISIONS

- 13. Health and Safety Code section 11173, subsection (a) states in pertinent part:
- (a) 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.
 - 14. Health and Safety Code section 11350 states in pertinent part:
- (a) Except as otherwise provided in this division, every person who possesses any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.
- 15. Health and Safety Code section 11352 states in pertinent part, that every person who sells, furnishes, administers, or gives away any controlled substance classified in Schedule III, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, four, or five years.

16. Health and Safety Code section 11368 states: "Every person who forges or alters a prescription or who issues or utters an altered prescription, or who issues or utters a prescription bearing a forged or fictitious signature for any narcotic drug, or who obtains any narcotic drug by any forged, fictitious, or altered prescription, or who has in possession any narcotic drug secured by a forged, fictitious, or altered prescription, shall be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the state prison.

DRUGS

- 17. Health and Safety Code section 11056(e) designates Hydrocodone a Schedule III controlled substance, and a dangerous drug pursuant to Code section 4022. In combination with acetaminophen, it is known by the brand names of Norco, Vicodin, Lortab, and Lorcet.
- 18. Amoxicillin is an antibiotic in the penicillin family and a dangerous drug pursuant to Code section 4022.

COST RECOVERY

19. 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.

BACKGROUND INFORMATION

- 20. Respondent worked for Wal-Mart as a pharmacy technician for approximately 10 years, from 2001 until 2011. Respondent saw Dr. Y on or about August 6, 2009, and was issued a prescription. When Dr. Y issued Respondent the prescription, he inadvertently tore an extra, blank sheet from his prescription pad and gave it to Respondent. Respondent discovered and saved the additional prescription sheet.
- 21. On or about December 16, 2010, Respondent used the additional prescription sheet to forge a prescription for her son, B.F., for Vicodin (Hydrocodone) and Amoxicillin. Respondent forged Dr. Y's signature, then had the prescription filled. The Wal-Mart computer system shows the prescription was paid for using cash so no customer signature was required. Respondent also destroyed the original forged prescription.

22. On or about January 13, 2011, Respondent attempted to obtain a refill for the forged prescription for Vicodin (Hydrocodone). Respondent apparently used another pharmacist's signon information for the Wal-Mart Pharmacy computer system while that pharmacist was on his lunch break, and input information that "Mary" from Dr. Y's office had called in a refill for the forged prescription. No refills were authorized, or could have been authorized since the original prescription was forged. Dr. Y does not employ anyone named "Mary." Another pharmacist noticed that this information was entered at a time when the pharmacist allegedly entering it was at lunch, and brought the discrepancy to the attention of Wal-Mart loss prevention. Respondent was interviewed and admitted to forging the original prescription, inputting information about the refill, and providing the drugs to her son. Further, Respondent explained and signed a declaration providing the information in paragraph 18, above, in regards to how she obtained the blank prescription form.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, or Deceit)

- 23. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subsection (f), in that she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as follows:
- a. On or about August 6, 2009, Respondent unlawfully took a blank prescription form from the office of a licensed physician as set forth in paragraph 20, above. Respondent possessed the blank prescription form without appropriate authorization from approximately August 6, 2009, until approximately December 16, 2010 in violation of Code section 4325.
- b. On or about December 16, 2010, Respondent unlawfully forged a prescription for Vicodin (Hydrocodone) and Amoxicillin in violation of Code section 4324, and Health and Safety Code sections 11173, subsection (a), and 11386, as set forth in paragraph 21, above.
- c. On or about January 13, 2011, Respondent unlawfully used another pharmacist's log-in information in order to fraudulently insert information into the Wal-Mart Pharmacy computer system for the purpose of obtaining a refill for a forged prescription in

violation of Code section 4063, and Health and Safety Code section 11173, subsection (a), as set forth in paragraph 22, above.

SECOND CAUSE FOR DISCIPLINE

(Violation of Laws Governing Controlled Substances)

- 24. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subsection (j) in that she violated the laws governing controlled substances as follows:
- a. From approximately August 6, 2009, until approximately December 16, 2010, Respondent possessed a blank prescription form without appropriate authorization in violation of Code section 4325 as set forth in paragraphs 20 and 23(a), above.
- b. On or about December 16, 2010, Respondent forged a prescription in order to obtain Vicodin (Hydrocodone) in violation of Health and Safety Code sections 11173, subsection (a), and 11368, as set forth fully in paragraphs 21 and 23(b), above.
- c. On or about December 16, 2010, Respondent possessed a controlled substance that was not validly prescribed to her in violation of Code section 4060, and Health and Safety Code section 11350, as set forth fully in paragraphs 20-22, above.
- d. On or about December 16, 2010, Respondent possessed a controlled substance with intent to sell, furnish, or give away the controlled substance in violation of Code section 4059 and Health and Safety Code section 11352, as set forth fully in paragraphs 20-22, above.
- e. On or about January 13, 2011, Respondent falsified computer records in order to obtain a refill of the prescription she had forged in violation of Code section 4063, as set forth fully in paragraphs 21 and 23(c), above.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Provisions of this Article)

25. Respondent is subject to disciplinary action for unprofessional conduct under Code section 4301, subsection (o) in that she violated the provisions and terms of the Pharmacy Law commencing with Code section 4000, and the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or