

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

In the Matter of the Accusation Against:

GEORGIA NICOLE BANKE

103 Citrine Court
Hercules, CA 94547

Pharmacy Technician Registration No.
TCH 38759

Respondent.

Case No. 5047

OAH Number 2014070344

DECISION AND ORDER

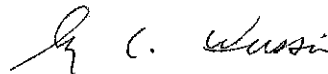
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 5, 2014.

It is so ORDERED on October 31, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

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Attorney General of California
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case Number 5047
OAH Number 2014070344

12 **GEORGIA NICOLE BANKE**
13 **103 Citrine Court**
Hercules, California 94547

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacy Technician Registration Number**
15 **TCH 38759,**

16 Respondent.

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

20 **PARTIES**

21 1. Complainant Virginia Herold is the Executive Officer of the Board of Pharmacy
22 (Board), Department of Consumer Affairs. She brought this action solely in her official capacity
23 and is represented in this matter by Kamala D. Harris, Attorney General of the State of California,
24 and by Gregory Tuss, Deputy Attorney General.

25 2. Respondent Georgia Nicole Banke is representing herself in this proceeding and
26 has chosen not to exercise her right to be represented by counsel.

27 3. On or about July 23, 2001, the Board issued Pharmacy Technician Registration
28 Number TCH 38759 to respondent. This pharmacy technician registration was in full force and

1 effect at all times relevant to the charges brought in Accusation Number 5047 and will expire on
2 May 31, 2015, unless renewed.

3 **JURISDICTION**

4 4. Accusation Number 5047 was filed before the Board and is currently pending
5 against respondent. The accusation and all other statutorily required documents were properly
6 served on respondent on April 22, 2014. Respondent timely filed her notice of defense contesting
7 the accusation. A copy of Accusation Number 5047 is attached as exhibit 1 and incorporated by
8 reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation Number 5047. Respondent also has carefully read, and understands the effects of this
12 Stipulated Surrender of License and Order.

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

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

22 **CULPABILITY**

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 Number 5047, agrees that cause exists for discipline, and surrenders her Pharmacy Technician
25 Registration Number TCH 38759 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to
27 issue an order accepting the surrender of her pharmacy technician registration without further
28 process.

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

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

5 4. If respondent ever files an application for licensure or a petition for reinstatement
6 in the State of California, the Board shall treat it as a new application for licensure.

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

15 6. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$3,601.00 prior to issuance of a new or reinstated license.

17 7. If respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation Number 5047 shall be
20 deemed to be true, correct, and admitted by respondent for the purpose of any statement of issues
21 or any other proceeding seeking to deny or restrict licensure.

22 ///

Exhibit 1

Accusation Number 5047

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
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4 State Bar Number 200659
1515 Clay Street, 20th Floor
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8 **BEFORE THE**
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case Number 5047

12 **GEORGIA NICOLE BANKE**
103 Citrine Court
13 Hercules, California 94547

A C C U S A T I O N

14 **Pharmacy Technician Registration Number**
15 **TCH 38759,**

16 Respondent.

17
18 Complainant Virginia Herold alleges:

19 **PARTIES**

20 1. Complainant brings this accusation solely in her official capacity as the Executive
21 Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

22 2. On or about July 23, 2001, the Board issued Pharmacy Technician Registration
23 Number TCH 38759 to respondent Georgia Nicole Banke. This pharmacy technician registration
24 was in full force and effect at all times relevant to the charges brought in this accusation and will
25 expire on May 31, 2015, unless renewed.

26 **JURISDICTION**

27 3. This accusation is brought before the Board under the authority of the following laws.
28 All section references are to the Business and Professions Code unless otherwise indicated.

1 4. Section 4011 states:

2 "The board shall administer and enforce this chapter and the Uniform Controlled
3 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

4 5. Section 4300 states in part:

5 "(a) Every license issued may be suspended or revoked.

6 "(b) The board shall discipline the holder of any license issued by the board, whose default
7 has been entered or whose case has been heard by the board and found guilty, by any of the
8 following methods:

9 "(1) Suspending judgment.

10 "(2) Placing him or her upon probation.

11 "(3) Suspending his or her right to practice for a period not exceeding one year.

12 "(4) Revoking his or her license.

13 "(5) Taking any other action in relation to disciplining him or her as the board in its
14 discretion may deem proper."

15 6. Section 4300.1 states:

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

21 7. Section 4304 states:

22 "The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for
23 any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of
24 Division 104 of the Health and Safety Code."

25 **STATUTORY PROVISIONS**

26 8. Section 4060 states in part:

27 "No person shall possess any controlled substance, except that furnished to a person upon
28 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor

1 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
2 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
3 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
4 pharmacist pursuant to either Section 4052.1 or 4052.2."

5 9. Section 4301 states in part:

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

9 ...

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

15 ...

16 "(j) The violation of any of the statutes of this state, of any other state, or of the United
17 States regulating controlled substances and dangerous drugs.

18 ...

19 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
20 violation of or conspiring to violate any provision or term of this chapter or of the applicable
21 federal and state laws and regulations governing pharmacy, including regulations established by
22 the board or by any other state or federal regulatory agency."

23 10. Section 4327 states:

24 "Any person who, while on duty, sells, dispenses or compounds any drug while under the
25 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

26 11. Health and Safety Code section 11057 states in part:

27 "(a) The controlled substances listed in this section are included in Schedule IV.

28 ///

1 “(b) Schedule IV shall consist of the drugs and other substances, by whatever official name,
2 common or usual name, chemical name, or brand name designated, listed in this section.

3 ...

4 “(d) Depressants. Unless specifically excepted or unless listed in another schedule, any
5 material, compound, mixture, or preparation which contains any quantity of the following
6 substances, including its salts, isomers, and salts of isomers whenever the existence of those salts,
7 isomers, and salts of isomers is possible within the specific chemical designation:

8 “(1) Alprazolam.”

9 12. Health and Safety Code section 11170 provides:

10 “No person shall prescribe, administer, or furnish a controlled substance for himself.”

11 **COST RECOVERY**

12 13. Section 125.3, subdivision (a), states:

13 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary
14 proceeding before any board within the department or before the Osteopathic Medical Board,
15 upon request of the entity bringing the proceedings, the administrative law judge may direct a
16 licentiate found to have committed a violation or violations of the licensing act to pay a sum not
17 to exceed the reasonable costs of the investigation and enforcement of the case.”

18 **DRUGS**

19 14. Alprazolam, also known by the brand name “Xanax,” is a Schedule IV controlled
20 substance under Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug
21 within the meaning of Business and Professions Code section 4022. It is used for the
22 management of anxiety disorders or for the short-term relief of the symptoms of anxiety.

23 **FACTUAL BACKGROUND**

24 15. From 2005 to April 2013, respondent worked at Kaiser Health Plan North in
25 Pleasanton, California. On March 7, 2013, respondent worked as a pharmacy technician and
26 staffed the cash register, returned stock, filled prescriptions, and placed a prescription order.

27 16. Pharmacy personnel that day noticed respondent shaking, and speaking and blinking
28 slowly. Her eyes were glassy. She could not log into the computer with her password and kept

1 trying to log in even after being told that the computer had locked her out. She took over 45
2 minutes to complete a task that should have been done in less than 10 minutes. She walked
3 unsteadily and once walked sideways instead of straight forward. She was asked to reconstitute
4 (add water to powder) a prescription into a 50 ml bottle; about 5 minutes later she brought back
5 two 75 ml bottles. When informed of her mistake, it took her about 3 more minutes to
6 reconstitute the single 50 ml bottle.

7 17. Respondent consented to a drug test which was positive for alprazolam. She stated
8 that she did not have a prescription for the drug and got it from her stepmother to help her sleep.
9 She found that it helped her cope with the stress of her workplace, the illnesses in her family, and
10 her sleeplessness. She said that she made a mistake by accepting the alprazolam. She had begun
11 taking the alprazolam around the beginning of 2012 and used it about twice a week. She admitted
12 taking alprazolam the night before going to work on March 7, 2013.

13 18. Kaiser Health Plan North terminated respondent on or about April 15, 2013.

14 CAUSES FOR DISCIPLINE

15 **FIRST CAUSE FOR DISCIPLINE**

16 **Unprofessional Conduct – Possession of Controlled Substance Business and Professions Code sections 4060 and 4301, subdivisions (j) and (o)**

17 19. The allegations of paragraphs 15-18 are realleged and incorporated by reference as if
18 fully set forth.

19 20. Respondent has subjected her pharmacy technician registration to disciplinary action
20 under sections 4060 and 4301, subdivisions (j) and (o), for the unprofessional conduct of
21 possession of a controlled substance. As set forth in paragraphs 15-18 above, respondent
22 possessed alprazolam without a prescription or any authorization from a pharmacy.

23 **SECOND CAUSE FOR DISCIPLINE**

24 **Unprofessional Conduct – Self-administration of a Controlled Substance so as to Be a 25 Danger to Self or Others, or Impair the Ability to Practice Business and Professions Code section 4301, subdivision (h)**

26 21. The allegations of paragraphs 15-18 are realleged and incorporated by reference as if
27 fully set forth.

28 ///

22. Respondent has subjected her pharmacy technician registration to disciplinary action under section 4301, subdivisions (h), for the unprofessional conduct of self-administration of a controlled substance to the extent as to be dangerous or injurious to oneself or another person, or to the extent that the use impaired her ability to conduct the licensed practice with safety to the public. As set forth in paragraphs 15-18 above, respondent tested positive for alprazolam and admitted taking the drug without a prescription the night before going to work as a pharmacy technician at Kaiser Health Plan North.

THIRD CAUSE FOR DISCIPLINE
Unprofessional Conduct – Self-administration of a Controlled Substance
Business and Professions Code section 4301, subdivision (j), and
Health and Safety Code section 11170

23. The allegations of paragraphs 15-18 are realleged and incorporated by reference as if fully set forth.

24. Respondent has subjected her pharmacy technician registration to disciplinary action under Business and Professions Code section 4301, subdivision (j), and Health and Safety Code section 11170, for the unprofessional conduct of self-administration of a controlled substance. As set forth in paragraphs 15-18 above, respondent tested positive for alprazolam and admitted taking the drug without a prescription.

FOURTH CAUSE FOR DISCIPLINE
Unprofessional Conduct – Under the Influence While on Duty
Business and Professions Code sections 4301, subdivisions (j) and (o), and 4327

25. The allegations of paragraphs 15-18 are realleged and incorporated by reference as if fully set forth.

26. Respondent has subjected her pharmacy technician registration to disciplinary action under Business and Professions Code sections 4301, subdivisions (j) and (o), and 4327, for the unprofessional conduct of being under the influence while on duty. As set forth in paragraphs 15-18 above, respondent tested positive for alprazolam while working as a pharmacy technician at Kaiser Health Plan North and admitted taking the drug without a prescription the night before going to work.

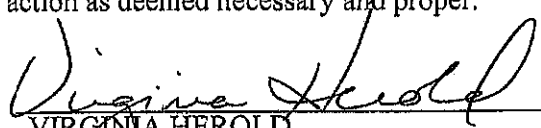
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PRAAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged in this accusation, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 38759 issued to Georgia Nicole Banke
2. Ordering Georgia Nicole Banke to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/5/14


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

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