

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

In the Matter of the Accusation Against:

**DAVID G. MOLL
15425 SE Rhine St.
Portland, Oregon 97236
Pharmacist License No. RPH 44488**

Respondent.

Case No. 5352

OAH No. 2015070181

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 at 5:00 p.m. on September 9, 2016.

It is so ORDERED on August 10, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5352

12 **DAVID G. MOLL**
13 **15425 SE Rhine St.**
Portland, Oregon 97236

OAH No. 2015070181

14 **Pharmacist License No. RPH 44488**

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 Respondent.
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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 Jeffrey M. Phillips, Deputy Attorney
24 General.

25 2. Respondent David G. Moll ("Respondent") is represented in this proceeding by
26 attorney Ivan Petrzela, whose address is: 2855 Michelle Drive, Suite 180, Irvine, CA 92606.

27 3. On or about August 9, 1991, the Board of Pharmacy issued Pharmacist License No.
28 RPH 44488 to David G. Moll (Respondent). The Pharmacist License was in full force and effect

1 at all times relevant to the charges brought in Accusation No. 5352 and will expire on April 30,
2 2017, unless renewed.

3 JURISDICTION

4 4. Accusation No. 5352 was filed before the Board of Pharmacy (Board), Department
5 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on May 21, 2015.
7 Respondent timely filed his Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 5352 is attached as exhibit A and incorporated herein by
9 reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 5352. Respondent also has carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
14 Order.

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

22 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 9. Respondent understands and agrees that the charges and allegations in Accusation
26 No. 5352, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
27 License.

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1 10. For the purpose of resolving the Accusation without the expense and uncertainty of
2 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
3 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
4 those charges.

5 11. Respondent understands that by signing this stipulation he enables the Board to issue
6 an order accepting the surrender of his Pharmacist License without further process.

7 RESERVATION

8 12. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
10 licensing agency is involved, and shall not be admissible in any other criminal or civil
11 proceeding.

12 CONTINGENCY

13 13. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
14 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
15 communicate directly with the Board regarding this stipulation and surrender, without notice to or
16 participation by Respondent or his counsel. By signing the stipulation, Respondent understands
17 and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the
18 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
19 Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or
20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
21 and the Board shall not be disqualified from further action by having considered this matter.

22 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Surrender of License and Order, including Portable Document Format
24 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

25 15. This Stipulated Surrender of License and Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
2 executed by an authorized representative of each of the parties.

3 16. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following Order:

5 **ORDER**

6 IT IS HEREBY ORDERED that Pharmacist License No. RPH 44488, issued to Respondent
7 David G. Moll, is surrendered and accepted by the Board of Pharmacy.

8 1. The surrender of Respondent's Pharmacist License and the acceptance of the
9 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
10 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
11 license history with the Board of Pharmacy.

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

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

16 4. If Respondent ever files an application for licensure or a petition for reinstatement in
17 the State of California, the Board shall treat it as a new application. Respondent may not apply
18 for any license, permit, or registration from the board for three years from the effective date of
19 this decision. Respondent stipulates that should he or she apply for any license from the board on
20 or after the effective date of this decision, all allegations set forth in the accusation shall be
21 deemed to be true, correct and admitted by respondent when the board determines whether to

22 grant or deny the application. Respondent shall satisfy all requirements applicable to that license

23 as of the date the application is submitted to the board, including, but not limited to taking and
24 passing the California Pharmacist Licensure Examination prior to the issuance of a new license.

25 Respondent is required to report this surrender as disciplinary action.


26 5. Respondent shall pay the agency its costs of investigation and enforcement in the
27 amount of \$2,332.50. prior to issuance of a new or reinstated license.

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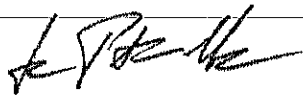
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will have on my Pharmacist 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: 5/30/16 
DAVID G. MOLL
Respondent

I have read and fully discussed with Respondent David G. Moll the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: June 6, 2016 
Ivan Petrzelka
Attorney for 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: 6/6/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



JEFFREY M. PHILLIPS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5352

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
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Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 **DAVID G. MOLL**
15425 SE Rhine Street
13 Portland, Oregon 97236
14 **Pharmacist License No. RPH 44488**
15 Respondents.

Case No. 5352

ACCUSATION

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 2. On or about August 9, 1991, the Board issued Pharmacist License Number
22 RPH 44488 to David G. Moll, also known as David Gunther Moll ("Respondent"). The
23 pharmacist license will expire on April 30, 2015, unless renewed.

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1 JURISDICTION

2 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:

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

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

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

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

9 (4) Revoking his or her license.

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

12 4. Code section 4300.1 states:

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

17 STATUTORY PROVISIONS

18 5. Code section 4301 states, in pertinent part:

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

22 ~~(n) The revocation, suspension, or other discipline by another state of a license~~
23 ~~to practice pharmacy, operate a pharmacy, or do any other act for which a license is~~
24 ~~required by this chapter.~~

24 COST RECOVERY

25 6. Code section 125.3 provides, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

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

3 **CAUSE FOR DISCIPLINE**

4 (Out of State Discipline)

5 7. Respondent is subject to discipline pursuant to Code section 4301(n). Specifically,
6 effective October 4, 2013, the Board of Pharmacy of the State of Oregon (the "Oregon Board"),
7 in a disciplinary action entitled, *In the Matter of Pharmacist License of David G. Moll, Licensee*,
8 Case No. 2012-0401, the Oregon Board imposed sanctions on Respondent's pharmacist license in
9 the State of Oregon pursuant to a *Consent Order*. The sanctions required, among other things, that
10 Respondent: sell his interest in, or close, Gresham Professional Pharmacy and refrain from
11 purchasing or managing another pharmacy without prior approval from the Oregon Board;
12 participate in a designated treatment program for three years; and, meet other terms and
13 conditions set forth by the Oregon Board in its *Consent Order* for a period of three years. The
14 disciplinary action was based on Respondent's unprofessional conduct and violations of Oregon
15 statutes and rules governing licensed pharmacists in the State of Oregon. Specifically, on or about
16 July 18, 2012, Respondent left a pharmacy building, leaving non-pharmacist personnel in the
17 pharmacy, and demonstrated mental impairment.

18 **PRAAYER**

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 Pharmacist License Number RPH 44488, issued to
22 David G. Moll, also known as David Gunther Moll;

23 2. Ordering David G. Moll, also known as David Gunther Moll, to pay the Board of
24 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
25 Business and Professions Code section 125.3; and,

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

DATED:

4/24/15



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

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