

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

In the Matter of the Accusation Against:

Case No. 5432

**DANIEL LOSSNER
407 Clark Street
Grass Valley, CA 95945**

**Pharmacy Technician Registration
No. TCH 88530**

Respondent.

DECISION AND ORDER

The attached Stipulated 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 at 5:00 p.m. on April 1, 2016.

It is so ORDERED on March 2, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

AMARYLIS GUTIERREZ
Board President

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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:
12 **DANIEL AARON LOSSNER**
13 **407 Clark Street**
14 **Grass Valley, CA 95945**
15 **Pharmacy Technician Registration No. TCH**
88530
16 Respondent.

Case No. 5432
OAH No. 2015100366
STIPULATED SURRENDER OF
LICENSE AND ORDER

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 David E. Brice, Deputy Attorney
24 General.

25 2. Daniel Aaron Lossner (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.

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1 9. Respondent understands that by signing this stipulation he enables the Board to issue
2 an order accepting the surrender of his Pharmacy Technician Registration without further process.

3 RESERVATION

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

8 CONTINGENCY

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

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

21 13. This Stipulated Surrender of License and Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
25 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
26 executed by an authorized representative of each of the parties.

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

1 ORDER

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 88530, issued
3 to Respondent Daniel Aaron Lossner, is surrendered and accepted by the Board of Pharmacy.

4 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
5 of the surrendered license by the Board shall constitute the imposition of discipline against
6 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
7 Respondent's license history with the Board of Pharmacy.

8 2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
9 as of the effective date of the Board's Decision and Order.

10 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
11 issued, his wall certificate within ten (10) days of the effective date of the Decision and Order.

12 4. Respondent understands and agrees that if he ever applies for licensure or petitions
13 for reinstatement in the State of California, the Board shall treat it as a new application for
14 licensure.

15 5. Respondent may not apply for any license, permit, or registration from the board for
16 three (3) years from the effective date of this decision. Respondent stipulates that should he or
17 she apply for any license from the board on or after the effective date of this decision, all
18 allegations set forth in Accusation No. 5432 shall be deemed to be true, correct and admitted by
19 respondent when the board determines whether to grant or deny the application. Respondent shall
20 satisfy all requirements applicable to that license as of the date the application is submitted to the
21 board, including, but not limited to certification by a nationally recognized body prior to the
22 issuance of a new license. Respondent is required to report this surrender as disciplinary action.

23 6. Respondent shall pay the agency its costs of investigation and enforcement in the
24 amount of \$4,702.50 prior to issuance of a new or reinstated license.


25 7. If Respondent should ever apply or reapply for a new license or certification, or
26 petition for reinstatement of a license, by any other health care licensing agency in the State of
27 California, all of the charges and allegations contained in Accusation, No. 5432 shall be deemed

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1 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
2 other proceeding seeking to deny or restrict licensure.


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4 ACCEPTANCE

5 I have carefully read the Stipulated Surrender of License and Order. I understand the
6 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
7 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
8 be bound by the Decision and Order of the Board of Pharmacy.

9 DATED: 1/6/16 
10 DANIEL AARON LOSSNER
11 Respondent

12 ENDORSEMENT

13 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
14 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

15 Dated: 1/6/2016
16 Respectfully submitted,
17 KAMALA D. HARRIS
18 Attorney General of California
19 KENT D. HARRIS
20 Supervising Deputy Attorney General
21 
22 DAVID E. BRICE
23 Deputy Attorney General
24 Attorneys for Complainant

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Exhibit A

Accusation No. 5432

1. KAMAEA D. HARRIS
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2. KENT D. HARRIS
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3. DAVID E. BRICE
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7. Attorneys for Complainant

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

11. In the Matter of the Accusation Against:

Case No. 5432

12. **DANIEL AARON LOSSNER**
13. **103 Margaret Lane**
Grass Valley, CA 95945

ACCUSATION

14. **Pharmacy Technician Registration No. TCH 88530**

15. Respondent.

17. Complainant alleges:

18. **PARTIES**

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

21. 2. On or about January 7, 2009, the Board issued Pharmacy Technician Registration
22. Number TCH 88530 to Daniel Aaron Lossner ("Respondent"). The pharmacy technician
23. registration was in full force and effect at all times relevant to the charges brought herein and will
24. expire on March 31, 2016, unless renewed.

25. **JURISDICTION**

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

28. ///

STATUTORY PROVISIONS

4. Code section 4300 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. Code 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.

6. Code section 4301 states, in pertinent part:

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

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

(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

1 7. Code section 4327 states that “[a]ny person who, while on duty, sells, dispenses or
2 compounds any drug while under the influence of any dangerous drug or alcoholic beverages
3 shall be guilty of a misdemeanor.”

4 **COST RECOVERY**

5 8. Code section 125.3 provides, in pertinent part, that a Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **BACKGROUND**

10 9. On or about December 26, 2013, the Board received a letter from S. S., District
11 Pharmacy Supervisor for Walgreens, stating that Respondent, a pharmacy technician at
12 Walgreens store (#10881) located on Sutton Way in Grass Valley, California, was participating in
13 their “Last Chance Agreement” for alcohol abuse. S. S. reported that Respondent failed to appear
14 for a random test as required by the program, and his employment was terminated on December
15 10, 2013.

16 10. On or about December 31, 2013, a representative from the Board’s Enforcement Unit,
17 sent an email to S. S., requesting further information, specifically, whether Respondent was ever
18 intoxicated while working or if his chemical use had an affect on his ability to safely practice.

19 11. On or about January 6, 2014, S. S. sent an email to the Board’s representative, stating
20 that on August 15, 2012, Respondent was sent for alcohol testing after the store manager and
21 pharmacy manager smelled alcohol on his breath. Respondent tested positive with a blood
22 alcohol of .068%. (S. S. provided the Board with a copy of the test on or about June 9, 2014).
23 S. S. also stated that on August 17, 2012, Respondent enrolled in Walgreen’s “Last Chance
24 Agreement” for alcohol rehabilitation. Respondent was assessed by a substance abuse
25 professional (“SAP”). On December 9, 2013, Walgreens was notified by the SAP that
26 Respondent was not in compliance with the conditions outlined in the Last Chance Agreement.
27 The SAP explained that Respondent was warned regarding a missed drug test on February 11,
28 2013, and then did not take a breath alcohol test on November 12, 2013, as required.

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2. Ordering Daniel Aaron Lossner 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;

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

DATED: 7/1/15 Virginia Herold

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

SA2015102959