

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

In the Matter of the Accusation Against:

ANDREW ISAAC FOSTER
11015 Marygold Way
Corona, CA 92883

**Pharmacy Technician Registration No. TCH
142423**

Respondent.

Case No. 5628

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 July 28, 2016.

It is so ORDERED on June 28, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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Supervising Deputy Attorney General
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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
12 In the Matter of the Accusation Against:

Case No. 5628

13 **ANDREW ISAAC FOSTER**
14 **11015 Marygold Way**
Corona, CA 92883

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Pharmacy Technician Registration No. TCH**
16 **142423**

17 Respondent.

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19
20 In the interest of a prompt and speedy settlement of this matter, consistent with the public
21 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
22 the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will
23 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

24 **PARTIES**

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Lauro A. Paredes, Deputy Attorney
28 General.

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CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 5628, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacy Technician Registration.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up his right to contest that cause for discipline exists based on those charges.

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

CONTINGENCY

11. 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. By signing the stipulation, Respondent understands and agrees that he may not withdraw his 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.

12. 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.

13. 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

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 14. 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 Pharmacy Technician Registration No. TCH 142423,
7 issued to Respondent Andrew Isaac Foster, is surrendered and accepted by the Board of
8 Pharmacy.

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

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

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

17 4. Respondent shall pay the agency its costs of investigation and enforcement in the
18 amount of \$1,982.50 prior to issuance of a new or reinstated license. Nothing in this provision
19 shall be construed to prohibit the Board from reducing the amount of cost recovery upon
20 reinstatement of the license.

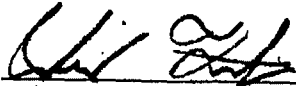
21 5. Respondent understands and agrees that if he or she ever files an application for licensure
22 or a petition for reinstatement in the State of California, the board shall treat it as a new
23 application for licensure.

24 Respondent may not apply for any license, permit, or registration from the board for three
25 (3) years from the effective date of this decision. Respondent stipulates that should he or she
26 apply for any license from the board on or after the effective date of this decision, all allegations
27 set forth in Accusation No. 5628 shall be deemed to be true, correct and admitted by respondent
28 when the board determines whether to grant or deny the application.

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


5 **ACCEPTANCE**

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

10
 11 DATED: 05-03-2016 
 12 **ANDREW ISAAC FOSTER**
 13 Respondent

14 **ENDORSEMENT**

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

17 Dated: 5/5/16 Respectfully submitted,
 18 **KAMALA D. HARRIS**
 19 Attorney General of California
 20 **GREGORY J. SALUTE**
 21 Supervising Deputy Attorney General
 22 
 23 **LAURO A. PAREDES**
 24 Deputy Attorney General
 25 *Attorneys for Complainant*

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Exhibit A

Accusation No. 5628

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2 LINDA K. SCHNEIDER
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3 JAMES M. LEDAKIS
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10 **BEFORE THE**
BOARD OF PHARMACY
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STATE OF CALIFORNIA
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12 In the Matter of the Accusation Against:.....

Case No. 5628

13 **ANDREW ISAAC FOSTER**
11015 Marygold Way
14 Corona, CA 92883

A C C U S A T I O N

15 Pharmacy Technician Registration No. TCH
142423

16 Respondent.
17

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 10, 2014, the Board issued Pharmacy Technician Registration
24 Number TCH 142423 to Andrew Isaac Foster (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and will
26 expire on May 31, 2016, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following laws.

3 All section references are to the Business and Professions Code unless otherwise indicated.

4 4. Section 4300, subdivision (a), of the Code provides that every license issued may by
5 the Board may be suspended or revoked.

6 5. Section 4300.1 of the Code states:

7 The expiration, cancellation, forfeiture, or suspension of a board-issued license
8 by operation of law or by order or decision of the board or a court of law, the
9 placement of a license on a retired status, or the voluntary surrender of a license by a
10 licensee shall not deprive the board of jurisdiction to commence or proceed with any
11 investigation of, or action or disciplinary proceeding against, the licensee or to render
12 a decision suspending or revoking the license.

11 STATUTORY PROVISIONS

12 6. Section 492 of the Code states:

13 Notwithstanding any other provision of law, successful completion of any
14 diversion program under the Penal Code, or successful completion of an alcohol and
15 drug problem assessment program under Article 5 (commencing with section
16 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
17 agency established under Division 2 ([Healing Arts] commencing with Section 500) of
18 this code, or any initiative act referred to in that division, from taking disciplinary
19 action against a licensee or from denying a license for professional misconduct,
20 notwithstanding that evidence of that misconduct may be recorded in a record
21 pertaining to an arrest.

22 This section shall not be construed to apply to any drug diversion program
23 operated by any agency established under Division 2 (commencing with Section 500)
24 of this code, or any initiative act referred to in that division.

25 7. Section 4301 of the Code states:

26 The board shall take action against any holder of a license who is guilty of
27 unprofessional conduct or whose license has been procured by fraud or
28 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.

...

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

3

4 8. Health and Safety Code section 11377, subdivision (a) states:

5 (a) A person shall not use, or be under the influence of any controlled substance
6 that is (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of
7 Section 11054, specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of
8 Section 11054, specified in subdivision (b) or (c) of Section 11055, or specified in
9 paragraph (1) or (2) of subdivision (d) or in paragraph (3) of subdivision (e) of Section
10 11055, or (2) a narcotic drug classified in Schedule III, IV, or V, except when
11 administered by or under the direction of a person licensed by the state to dispense,
12 prescribe, or administer controlled substances. It shall be the burden of the defense to
13 show that it comes within the exception. A person convicted of violating this subdivision
14 is guilty of a misdemeanor and shall be sentenced to serve a term of not more than one
15 year in a county jail. The court may also place a person convicted under this subdivision
16 on probation for a period not to exceed five years.

17 9. Health and Safety Code section 11364.1, subdivision (a) states:

18 It is unlawful to possess an opium pipe or any device, contrivance, instrument, or
19 paraphernalia used for unlawfully injecting or smoking (1) a controlled substance specified
20 in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
21 specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, specified in
22 subdivision (b) or (c) of Section 11055, or specified in paragraph (2) of subdivision (d) of
23 Section 11055, or (2) a controlled substance which is a narcotic drug classified in
24 Schedule III, IV, or V.

25 REGULATORY PROVISIONS

26 10. California Code of Regulations, title 16, section 1770, states:

27 For the purpose of denial, suspension, or revocation of a personal or facility license
28 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
Code, a crime or act shall be considered substantially related to the qualifications,
functions or duties of a licensee or registrant if to a substantial degree it evidences present
or potential unfitness of a licensee or registrant to perform the functions authorized by his
license or registration in a manner consistent with the public health, safety, or welfare.

29 COST RECOVERY

30 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
31 administrative law judge to direct a licentiate found to have committed a violation or violations of
32 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
33 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 DRUGS AT ISSUE

4 12. Methamphetamine is a schedule II controlled substance as designated by Health and
5 Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business and
6 Professions Code section 4022.

7 13. Amphetamine is a Schedule II controlled substance as designated by Health and
8 Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and
9 Professions Code section 4022.

10 FIRST CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct)

12 14. Respondent has subjected his registration to discipline under section 4301, of the Code
13 for unprofessional conduct in that on April 25, 2015, Respondent was observed sitting nude at an
14 elementary school and masturbating, while under the influence of Methamphetamine.

15 a. The circumstances are that on or about the early morning of Saturday, April 25,
16 2015, a deputy with the Riverside County Sheriff Department was dispatched to a nearby
17 elementary school. A witness observed a man sitting nude and masturbating at an elementary
18 school table. The man had a black backpack. The witness yelled at the Respondent, which caused
19 Respondent to run away. The witness observed Respondent jump into the backyard of a nearby
20 residence, which was later identified as Respondent's house. Based upon the witness
21 observations, the deputy went to the identified residence and interviewed Respondent. During a
22 consensual search of his residence, the deputy seized a glass smoking pipe used to smoke
23 methamphetamine, he also found a black backpack, which was described by the witness.
24 Respondent, admitted he has a methamphetamine addiction, and that he indigested
25 methamphetamine the night before. Respondent admitted he went for a walk and that he sat at a
26 table at the elementary school. The officer arrested Respondent for possession of the glass meth
27 pipe. Respondent admitted that he was under the influence and snapped out of his fog when he
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1 realized his behavior was inappropriate. During booking, Respondent provided his blood sample
2 which confirmed the presence of methamphetamine and amphetamine.

3 b. On or about June 19, 2015, in the criminal proceeding entitled *The People of the*
4 *State of California v. Andrew Isaac Foster*, in the Riverside County Superior Court, case no. RIM
5 1508840, Respondent was charged with violating Health and Safety Code section 11550,
6 subdivision (a), willfully and unlawfully used and was under the influence of a controlled substance
7 and Health and Safety Code section 11364, possession of an opium pipe and a device, contrivance,
8 instrument, and paraphernalia used for unlawfully injecting a smoking a controlled substance. The
9 court referred Respondent to Veterans Court, pursuant to a military diversion program, Penal
10 Code section 1001.80, Penal Code section 1000, and Penal Code section 1210.1.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Violation of Statutes Involving Controlled Substances)**

13 15. Respondent has subjected his registration to discipline under section 4301, subdivision
14 (j) of the Code for unprofessional conduct in that on April 25, 2015, Respondent knowingly
15 violated Health and Safety Code sections 11364 and 11550, when he was in possession of
16 paraphernalia and use of a controlled substance, as described in paragraph 14, above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Dangerous Use of a Controlled Substance)**

19 16. Respondent is subject to disciplinary action under Code section 4301, subdivision
20 (h) in that on April 25, 2015, Respondent was under the influence of a controlled substance, to
21 wit, methamphetamine and amphetamine. Respondent admitted to having a methamphetamine
22 addiction. Complainant refers to, and by reference incorporates, the allegations set forth above in
23 paragraph 14, subparagraph (a), as though fully set forth herein.

24 **PRAYER**

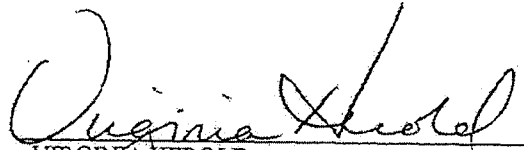
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Pharmacy issue a decision:

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1. Revoking or suspending Pharmacy Technician Registration Number TCH 142423, issued to Andrew Isaac Foster;
2. Ordering Andrew Isaac Foster 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: 1/22/16 

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

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VIRGINIA HEROLD