

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

In the Matter of the Accusation Against:

Case No. 5650

**DANIEL JAMES LEARN
24470 Corte Descanso
Murrieta, CA 92562**

**Pharmacy Technician Registration No. TCH
42139**

Respondent.

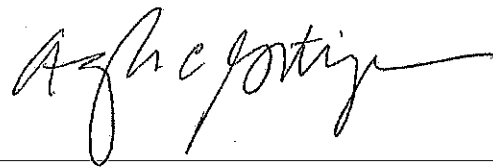
DECISION AND ORDER

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 at 5:00 p.m. on June 6, 2016.

It is so ORDERED on May 5, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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17 Respondent.

Case No. 5650

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Kamala D. Harris, Attorney General of the State of California, by Nicole R. Trama, Deputy
24 Attorney General.

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

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1 Respondent. This stipulation constitutes a record of the discipline, and shall become a part of
2 Respondent's license history with the Board of Pharmacy.

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

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

7 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
8 the Board shall treat it as a new application for licensure. Respondent must comply with all the
9 laws, regulations and procedures for licensure in effect at the time the application or petition is
10 filed, and all of the charges and allegations contained in Accusation No. 5650 shall be deemed to
11 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
12 the application or petition.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$1,213.30 prior to issuance of a new or reinstated license.

15 6. If Respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in Accusation, No. 5650 shall be deemed
18 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
19 other proceeding seeking to deny or restrict licensure.

20 7. Respondent may not apply for any license, permit, or registration from the Board for
21 three (3) years from the effective date of this Decision. Respondent stipulates that should he or
22 she apply for any license from the Board on or after the effective date of this Decision, all
23 allegations set forth in the Accusation shall be deemed to be true, correct and admitted by
24 Respondent when the Board determines whether to grant or deny the application. Respondent
25 shall satisfy all requirements applicable to that license as of the date the application is submitted
26 to the Board, including, but not limited to certification by a nationally recognized body prior to
27 the issuance of a new license. Respondent is required to report this surrender as disciplinary
28 action.

Exhibit A

Accusation No. 5650

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14 Murrieta, CA 92562

A C C U S A T I O N

15 Pharmacy Technician Registration No. TCH
42139

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 April 5, 2002, the Board issued Pharmacy Technician Registration
24 Number TCH 42139 to Daniel James Learn (Respondent). The Pharmacy Technician Registration
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 July 31, 2017, unless renewed.

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JURISDICTION

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

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

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.

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STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the licensee has been convicted of a crime substantially related to the qualifications, functions or duties of a licensed vocational nurse.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

1 As used in this section, "license" includes "certificate," "permit," "authority,"
2 and "registration."

3 9. Section 4301 of the Code states:

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

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

13 (i) The conviction of a crime substantially related to the qualifications, functions,
14 and duties of a licensee under this chapter. The record of conviction of a violation of
15 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
16 regulating controlled substances or of a violation of the statutes of this state regulating
17 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
18 conduct. In all other cases, the record of conviction shall be conclusive evidence only of
19 the fact that the conviction occurred. The board may inquire into the circumstances
20 surrounding the commission of the crime, in order to fix the degree of discipline or, in the
21 case of a conviction not involving controlled substances or dangerous drugs, to determine
22 if the conviction is of an offense substantially related to the qualifications, functions, and
23 duties of a licensee under this chapter. A plea or verdict of guilty or a conviction
24 following a plea of nolo contendere is deemed to be a conviction within the meaning of
25 this provision. The board may take action when the time for appeal has elapsed, or the
26 judgment of conviction has been affirmed on appeal or when an order granting probation
27 is made suspending the imposition of sentence, irrespective of a subsequent order under
28 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing
the accusation, information, or indictment.

21
22 **REGULATORY PROVISIONS**

23 10. California Code of Regulations, title 16, section 1769, states:

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25 (b) When considering the suspension or revocation of a facility or a personal
26 license on the ground that the licensee or the registrant has been convicted of a crime,
27 the board, in evaluating the rehabilitation of such person and his present eligibility for a
28 license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

1 (2) Total criminal record.

2 (3) The time that has elapsed since commission of the act(s) or offense(s).

3 (4) Whether the licensee has complied with all terms of parole, probation,
4 restitution or any other sanctions lawfully imposed against the licensee.

5 (5) Evidence, if any, of rehabilitation submitted by the licensee.

6 11. California Code of Regulations, title 16, section 1770, states:

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

11 COST RECOVERY

12 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
13 administrative law judge to direct a licensee found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 FIRST CAUSE FOR DISCIPLINE

17 (October 1, 2014 Criminal Convictions for Driving While Under the Influence
18 of Alcohol on August 10, 2014)

19 13. Respondent is subject to disciplinary action under sections 490 and 4301,
20 subdivision (l) of the Code that she was convicted of a crime that is substantially related to the
21 qualifications, functions and duties of a Pharmacist. The circumstances are as follows:

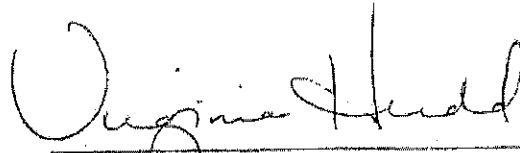
22 a. On or about October 1, 2014, in a criminal proceeding entitled *The People of the*
23 *State of California v. Daniel James Learn*, in Riverside County Superior Court, case number
24 SWM1406757, Respondent was convicted on his plea of guilty to violating Vehicle Code section
25 23152, subdivision (a) driving under the influence of alcohol and Vehicle Code section 23152,
26 subdivision (b), driving with a blood alcohol concentration (BAC) of .08 percent or more,
27 misdemeanors. Respondent admitted and the court found true the allegations that his BAC was
28 .15 percent or more within the meaning of Vehicle Code section 23578.

1 2. Ordering Daniel James Learn to pay the Board of Pharmacy the reasonable costs of
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
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8 DATED: _____

12/21/15



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

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