

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

In the Matter of the Accusation Against:

Case No. 5782

**JACQUELINE CASSIDY NOVOBILSKI  
130 E. Avenida de Los Arboles  
Thousand Oaks, CA 91360**

**Pharmacy Technician License No. T CH  
136841**

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 February 10, 2017.

It is so ORDERED on January 11, 2017.

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 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 GILLIAN E. FRIEDMAN  
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*Attorneys for Complainant*  
7

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

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12 **JACQUELINE CASSIDY NOVOBILSKI**  
13 **130 E. Avenida de Los Arboles**  
14 **Thousand Oaks, CA 91360**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 **Pharmacy Technician License No. TCH**  
16 **136841**

17 Respondent.

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 Gillian E. Friedman, Deputy  
24 Attorney General.

25 2. Jacqueline Cassidy Novobilski (Respondent) is representing herself in this proceeding  
26 and has chosen not to exercise her right to be represented by counsel.

27 3. On or about December 31, 2013, the Board issued Pharmacy Technician License No.  
28 TCH 136841 to Respondent. The Pharmacy Technician License was in full force and effect at all

1 times relevant to the charges brought in Accusation No. 5782 and will expire on July 31, 2017,  
2 unless renewed.

### 3 JURISDICTION

4 4. Accusation No. 5782 was filed before the (Board), and is currently pending against  
5 Respondent. The Accusation and all other statutorily required documents were properly served  
6 on Respondent on August 23, 2016. Respondent timely filed her Notice of Defense contesting  
7 the Accusation. A copy of Accusation No. 5782 is attached as Exhibit A and incorporated by  
8 reference.

### 9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 5782. 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 No. 5782, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician  
25 License No. TCH 136841 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue  
27 an order accepting the surrender of her Pharmacy Technician License without further process.

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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 her pocket license and, if one was  
6 issued, her wall certificate on or before the effective date of the Decision and Order.

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

17 5. Respondent shall pay the agency its costs of investigation and enforcement in the  
18 amount of \$4,407.50 prior to issuance of a new or reinstated license.

19 6. If Respondent should ever apply or reapply for a new license or certification, or  
20 petition for reinstatement of a license, by any other health care licensing agency in the State of  
21 California, all of the charges and allegations contained in Accusation, No. 5782 shall be deemed  
22 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
23 other proceeding seeking to deny or restrict licensure.

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**ACCEPTANCE**

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician 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: 10/29/16 \_\_\_\_\_ Jacqueline C. Novobilski  
JACQUELINE CASSIDY NOVOBILSKI  
*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: 11/16/16 \_\_\_\_\_ Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
MARC D. GREENBAUM  
Supervising Deputy Attorney General  
  
GILLIAN E. FRIEDMAN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 5782**

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 GILLIAN E. FRIEDMAN  
Deputy Attorney General  
4 State Bar No. 169207  
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12 **130 E. Avenida de Los Arboles**  
13 **Thousand Oaks, CA 91360**

**ACCUSATION**

14 **Pharmacy Technician License No. TCH**  
15 **136841**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about December 31, 2013, the Board of Pharmacy issued Pharmacy  
23 Technician License Number TCH 136841 to Jacqueline Cassidy Novobilski (Respondent). The  
24 Pharmacy Technician License was in full force and effect at all times relevant to the charges  
25 brought herein and will expire on July 31, 2017, unless renewed.

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1 JURISDICTION

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

5 4. Section 4011 of the Code provides that the Board shall administer and enforce both  
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
7 Act [Health & Safety Code, § 11000 et seq.].

8 5. Section 4300.1 of the Code states:

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

14 STATUTORY PROVISIONS

15 6. Section 4060 of the Code states:

16 "No person shall possess any controlled substance, except that furnished to a person upon  
17 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
18 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
19 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
20 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
21 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
22 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
23 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
24 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
25 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
26 labeled with the name and address of the supplier or producer.

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1           7.    Section 4301 of the Code provides, in relevant part:

2           “The board shall take action against any holder of a license who is guilty of unprofessional  
3           conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4           Unprofessional conduct shall include, but is not limited to, any of the following:

5           ...

6           “(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
7           corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
8           whether the act is a felony or misdemeanor or not.

9           ...

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

12          ...

13          “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
14          violation of or conspiring to violate any provision or term of this chapter or of the applicable  
15          federal and state laws and regulations governing pharmacy, including regulations established by  
16          the board or by any other state or federal regulatory agency.

17          ...”

18          8.    Health and Safety Code section 11173, subdivision (a), provides that no person shall  
19          obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
20          administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,  
21          or subterfuge; or (2) by the concealment of a material fact.

22          9.    Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess  
23          any controlled substance listed in Schedule II (Health and Safety Code section 11055),  
24          subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

25          10.   Alprazolam is a Schedule IV controlled substance as designated by Health and Safety  
26          Code section 11057, subdivision (d)(1) and a dangerous drug as designated by Business and  
27          Professions Code section 4022.

28          ///

1 COSTS

2 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 FACTUAL BACKGROUND

9 12. On or about December 18, 2015, while employed as a pharmacy technician at at  
10 Longs Drug Store California, LLC, dba CVS Pharmacy #3934, located at 60 N. Moorpark Road,  
11 Thousand Oaks, CA 91360 (CVS), Respondent fraudulently activated gift cards that she used to  
12 buy merchandise from CVS for her own personal use in the total amount of \$50.

13 13. Prior to this date, while working in the pharmacy at CVS, Respondent opened a bottle  
14 of Alprazolam 2mg and unlawfully took one pill without a lawful prescription, which she  
15 concealed in her shirt pocket and exited the pharmacy without paying. Respondent also  
16 conducted additional fraudulent "refunds" for the purpose of stealing cash from CVS in the total  
17 amount of an additional \$350.

18 FIRST CAUSE FOR DISCIPLINE

19 (Commission of an Act Involving Moral Turpitude, Dishonesty, Fraud,  
20 Deceit, and/or Corruption)

21 14. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and  
22 (o) of the Code in that she committed an act involving moral turpitude, dishonesty, fraud, deceit,  
23 and/or corruption when she diverted Alprazolam from the pharmacy where she was employed.  
24 The circumstances of Respondent's conduct are set forth above in paragraph 13 and incorporated  
25 herein by this reference.

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**SECOND CAUSE FOR DISCIPLINE**

**(Illegal Possession of Controlled Substances)**

15. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent possessed controlled substances without a prescription. The circumstances of Respondent's conduct are set forth above in paragraph 13 and incorporated herein by this reference.

**THIRD CAUSE FOR DISCIPLINE**

**(Obtaining Controlled Substance by Fraud, Deceit, or Subterfuge)**

16. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and/or (o) of the Code, and/or Health and Safety Code section 11173, subdivision (a), in that Respondent obtained controlled substances and/or procured the administration of controlled substances by fraud, deceit, subterfuge, and/or the concealment of a material fact. The circumstances of Respondent's conduct are set forth above in paragraph 13 and incorporated herein by this reference.

**FOURTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct)**

17. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent engaged in unprofessional conduct. The circumstances of Respondent's conduct are set forth above in paragraphs 12 and 13 and incorporated herein by this reference.

**PRAYER**

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

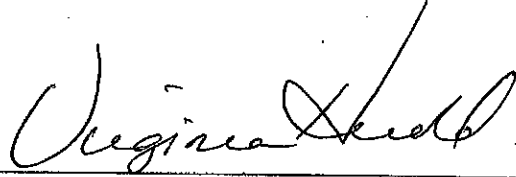
1. Revoking or suspending Pharmacy Technician License Number TCH 136841, issued to Jacqueline Cassidy Novobilski
2. Ordering Jacqueline Cassidy Novobilski to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: \_\_\_\_\_

8/15/16



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

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