

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA K. SCHNEIDER, State Bar No.101336
Supervising Deputy Attorney General
3 RON ESPINOZA, State Bar No. 176908
Deputy Attorney General
4 California Department of Justice
110 West "A" Street, Suite 1100
5 San Diego, CA 92101

6 P.O. Box 85266
San Diego, CA 92186-5266
7 Telephone: (619) 645-2100
8 Facsimile: (619) 645-2061

9 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 2968

13 DONAVAN EARL MIRANDA
14 9465 Wharton Rd.
Santee, CA 92071

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 Pharmacy Technician No. TCH42373

16 Respondent.
17

18
19 In the interest of a prompt and speedy resolution of this matter, consistent with the
20 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Surrender of License and Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 PARTIES

25 1. Virginia K. Herold (Complainant) is the Interim Executive Officer of the
26 Board of Pharmacy, Department of Consumer Affairs, and Patricia F. Harris filed this action in
27 her official capacity as the Executive Officer of the Board of Pharmacy, Department of
28 Consumer Affairs, on June 29, 2006. Complainant is represented in this matter by Bill Lockyer,

1 Attorney General of the State of California, by Ron Espinoza, Deputy Attorney General.

2 2. Donovan Earl Miranda (Respondent) is representing himself in this
3 proceeding and has chosen not to exercise his right to be represented by counsel.

4 3. On or about July 23, 2002, the Board of Pharmacy issued Pharmacy
5 Technician Registration No. TCH42373 to Respondent. The Pharmacy Technician Registration
6 was in full force and effect at all times relevant to the charges brought in Accusation No. 2968
7 and will expire on December 31, 2007, unless renewed.

8 JURISDICTION

9 4. Accusation No. 2968 was filed before the Board of Pharmacy (Board),
10 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
11 and all other statutorily required documents were properly served on Respondent on July 12,
12 2006. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
13 Accusation No. 2968 is attached as exhibit A and incorporated herein by reference.

14 ADVISEMENT AND WAIVERS

15 5. Respondent has carefully read, and understands the charges and allegations
16 in Accusation No. 2968. Respondent also has carefully read, and understands the effects of this
17 Stipulated Surrender of License and Order.

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

25 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
26 each and every right set forth above.

27 CULPABILITY

28 8. Respondent admits the truth of each and every charge and allegation in

1 Accusation No. 2968, agrees that cause exists for discipline and hereby surrenders his Pharmacy
2 Technician Registration No. TCH42373 for the Board's formal acceptance.

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

6 CONTINGENCY

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

16 11. The parties understand and agree that facsimile copies of this Stipulated
17 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
18 and effect as the originals.

19 12. In consideration of the foregoing admissions and stipulations, the parties
20 agree that the Board may, without further notice or formal proceeding, issue and enter the
21 following Order:

22 ORDER

23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No.
24 TCH42373 issued to Respondent Donovan Earl Miranda is surrendered and accepted by the
25 Board of Pharmacy.

26 1. The surrender of Respondent's Pharmacy Technician Registration and the
27 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
28 against Respondent. This stipulation constitutes a record of the discipline and shall become a

1 part of Respondent's license history with the Board.

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

4 3. Respondent shall cause to be delivered to the Board both his Registration
5 wall certificate and pocket license on or before the effective date of the Decision and Order.

6 4. Respondent understands and agrees that he may not apply for licensure or
7 petition for reinstatement for any license from the Board for three (3) years from the effective
8 date of the Decision and Order.

9 5. Respondent understands and agrees that if he ever applies for licensure or
10 petitions for reinstatement in the State of California, the Board shall treat it as a new application
11 for licensure. Respondent must comply with all the laws, regulations and procedures for
12 licensure in effect at the time the application or petition is filed, and all of the charges and
13 allegations contained in Accusation No. 2968 shall be deemed to be true, correct and admitted by
14 Respondent when the Board determines whether to grant or deny the application or petition.

15 6. Should Respondent ever apply or reapply for a new license or certification,
16 or 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. 2968 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 shall pay the Board its costs of investigation and enforcement
21 in the amount of \$3,000.00 prior to issuance of a new or reinstated license.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

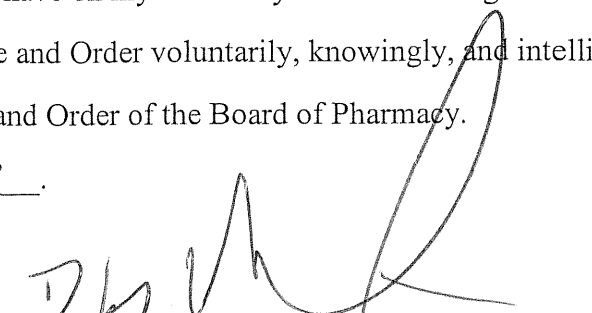
28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Registration. 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: 09-22-06.



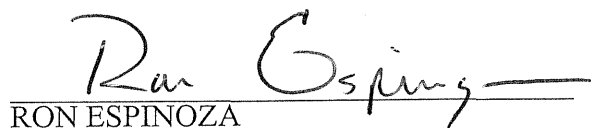
DONAVAN EARL MIRANDA
Respondent

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: 9-28-06.

BILL LOCKYER, Attorney General
of the State of California



RON ESPINOZA
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against:

DONAVAN EARL MIRANDA
9465 Wharton Rd.
Santee, CA 92071

Pharmacy Technician No. TCH42373

Respondent.

Case No. 2968

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 on November 30, 2006.

It is so ORDERED October 31, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

Exhibit A
Accusation No. 2968

1 BILL LOCKYER, Attorney General
of the State of California
2 RON ESPINOZA, State Bar No. 176908
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2100
Facsimile: (619) 645-2061
7 E-mail: ron.espinoza@doj.ca.gov

8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 2968

13 DONAVAN EARL MIRANDA
9465 Wharton Rd.
14 Santee, CA 92071

OAH No.

A C C U S A T I O N

15 Pharmacy Technician No. TCH42373

16 Respondent.
17

18 Complainant alleges:

19 PARTIES

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

23 2. On or about July 23, 2002, the Board of Pharmacy issued original
24 Pharmacy Technician Registration Number TCH42373 to Donovan Earl Miranda (Respondent).
25 The original Pharmacy Technician Registration was in full force and effect at all times relevant
26 to the charges brought herein and will expire on December 31, 2007, unless renewed.

27 ///

28 ///

JURISDICTION

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

A. Section 4301 of the Code states, in relevant 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:

....

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

....

(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.

....

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

(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.

....

B. Section 4059 of the Code states, in relevant part:

(a) A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

....

///

1 C. Section 492 of the Code states:

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

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

14 D. Health and Safety Code section 11170 states:

15 No person shall prescribe, administer, or furnish a controlled substance for
16 himself.

17 4. Section 4021 of the Code defines "controlled substance" as any substance
18 listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety
19 Code.

20 5. Section 4022 defines "dangerous drugs" as any drug that is unsafe for self-
21 medication and which by federal or state law can be lawfully dispensed only on prescription.

22 6. Section 125.3 of the Code states, in pertinent part, that the Board may
23 request the administrative law judge to direct a licentiate found to have committed a violation or
24 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
25 and enforcement of the case.

26 DRUGS

27 7. The following are all dangerous drugs, pursuant to Business and
28 Professions Code section 4022, and are also controlled substances if so identified:

A. Soma (generic - carisoprodol) is classified as a dangerous drug under
Section 4022.

B. Meprobamate is classified as a dangerous drug under Section 4022, and is
a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision
(d)(18).

1 FACTS AND CIRCUMSTANCES

2 8. On May 2, 2005, at approximately 2:53 a.m., officers from the San Diego
3 Sheriff's Department initiated a consensual contact with Respondent. During initial contact, one
4 of the officers noticed signs and symptoms indicating that Respondent was possibly under the
5 influence of a controlled substance. When asked if he was under the influence of any drugs,
6 Respondent admitted that he had taken some muscle relaxers. When asked if he had any drugs
7 on his person, Respondent admitted that he had several muscle relaxers in his pocket. When the
8 officer asked whether the drugs were prescribed to him, Respondent admitted that they were not.

9 9. Respondent gave one of the officers permission to search his person, and
10 during this search, thirteen and a half pills were discovered in Respondent's pant pocket.
11 Respondent stated that the pills were generic Soma.

12 10. Respondent was administered and failed several field sobriety tests.
13 Following the field sobriety tests, Respondent was arrested for being under the influence of a
14 controlled substance. After being read his Miranda rights, Respondent agreed to speak to one of
15 the officers. He told one of the officers that he had stolen the pills from his mother.

16 11. On May 19, 2005, Respondent was charged in a misdemeanor complaint
17 with one count of being under the influence of a controlled substance (Health & Saf. Code, §
18 11550, subd. (a).) On June 9, 2005, Respondent pled guilty to this count. On this same date,
19 Respondent applied for and was granted deferred entry of judgment for 18 months as to this
20 count under Penal Code section 1000.

21 12. On June 9, 2005, Respondent admitted in his Plea of Guilty/No Contest-
22 Misdemeanor Form that on the date charged he was under the influence of a controlled substance
23 without a prescription, to wit: Meprobamate.

24 FIRST CAUSE FOR DISCIPLINE

25 (Unprofessional Conduct- Use of Dangerous Drug)

26 13. Respondent is subject to disciplinary action under Business and
27 Professions Code section 4301, subdivision (h), in that he used a dangerous drug to the extent or
28 in a manner as to be dangerous or injurious to himself or to any other person, or to the extent that

1 the use impaired his ability to conduct with safety to the public the practice authorized by his
2 pharmacy technician registration, as set forth in paragraphs 8-10 and 12 above.

3 SECOND CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct-Commission of Acts Involving
5 Moral Turpitude, Dishonesty and Deceit)

6 14. Respondent is subject to disciplinary action under Business and
7 Professions Code section 4301, subdivision (f), in that he possessed and ingested a dangerous
8 drug without a prescription, which was stolen from his mother, as set forth in paragraphs 8-10
9 above.

10 THIRD CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct- Furnishing Dangerous Drugs to Oneself Without Prescription)

12 15. Respondent is subject to disciplinary action under Business and
13 Professions Code section 4301, subdivision (o), in that he furnished himself with a dangerous
14 drug without a prescription in violation of Business and Professions Code section 4059, as set
15 forth in paragraphs 8-10 above.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct- Violation of Statute Regulating Controlled Substances)

18 16. Respondent is subject to disciplinary action under Business and
19 Professions Code section 4301, subdivision (j), in that he furnished himself a controlled
20 substance in violation of Health and Safety Code section 11170, as set forth in paragraphs 8-10
21 and 12 above.

22 OTHER MATTERS

23 17. On May 2, 2005, Respondent was arrested for being under the influence of
24 a controlled substance (see paragraphs 8-10 above). After being read his Miranda rights,
25 Respondent admitted to the arresting officer that he was "arrested for the same thing in
26 November."

27 ///

28 ///

1 PRAYER

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

4 A. Revoking or suspending Pharmacy Technician Number TCH42373, issued
5 to Donovan Earl Miranda;

6 B. Ordering Donovan Earl Miranda to pay the Board of Pharmacy the
7 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
8 Professions Code section 125.3;

9 C. Taking such other and further action as deemed necessary and proper.

10
11 DATED: 6/29/06

12
13 P. F. Harris

14 PATRICIA F. HARRIS
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant
20
21
22
23
24
25
26
27
28

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: **In the Matter of the Accusation Against: DONAVAN EARL MIRANDA**

Case No.: **2968**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On July 12, 2006, I served the attached **Accusation, Statement to Respondent, Request for Discovery, Discovery Statutes, Notice of Defense (2 copies)**, by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Accusation, Statement to Respondent, Request for Discovery, Discovery Statutes, Notice of Defense (2 copies)**, was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Donavan Earl Miranda
9465 Wharton Rd.
Santee, CA 92071

Certified Article Number

7160 3901 9849 3221 2322

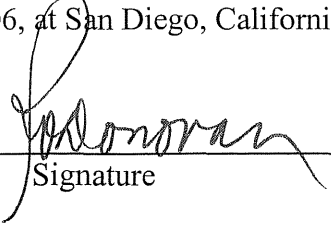
SENDERS RECORD

In Pro Per

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on July 12, 2006, at San Diego, California.

Rosita Donovan

Declarant


Signature

cc: Kim deLong, Enforcement Analyst, Board of Pharmacy