

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

In the Matter of the Accusation Against:

DAVID M. QUINN  
2534 Anacapa Drive, #201  
Costa Mesa, California 92626

Case No. 3031

OAH No.

Pharmacy Technician Registration No. TCH 31573,

Respondent.

**DECISION AND ORDER**

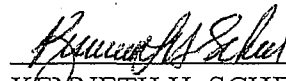
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy as its Decision in this matter.

This decision shall become effective on October 23, 2008.

It is so ORDERED on September 23, 2008.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 CARL W. SONNE, State Bar No. 116253  
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8 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3031

13 DAVID M. QUINN  
2534 Anacapa Drive, #201  
14 Costa Mesa, CA 92626

OAH No.

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

15 Pharmacy Technician Registration No. TCH  
31573

16 Respondent.  
17

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
19 proceeding that the following matters are true:

20 PARTIES

21 1. Virginia K. Herold (Complainant) is the Executive Officer of the Board of  
22 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
23 by Edmund G. Brown Jr., Attorney General of the State of California, by Carl W. Sonne, Deputy  
24 Attorney General.

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

27 3. On or about November 22, 1999, the Board of Pharmacy issued Pharmacy  
28 Technician Registration No. TCH 31573 to David M. Quinn (Respondent). The license was in

1 full force and effect at all times relevant to the charges brought in Accusation No. 3031 and will  
2 expire on April 30, 2009, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3031 was filed before the Board of Pharmacy (Board), and  
5 is currently pending against Respondent. The Accusation and all other statutorily required  
6 documents were properly served on Respondent on July 24, 2007. Respondent timely filed his  
7 Notice of Defense contesting the Accusation. A copy of Accusation No. 3031 is attached as  
8 exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and  
11 allegations in Accusation No. 3031. Respondent also has carefully read, and understands the  
12 effects of this Stipulated Surrender of License and Order.

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

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

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in  
24 Accusation No. 3031, and agrees that cause exists for discipline and hereby surrenders his  
25 Pharmacy Technician Registration No. TCH 31573 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation he enables the  
27 Board's order accepting the surrender of his Pharmacy Technician Registration without further  
28 process.



1 by Respondent when the Board determines whether to grant or deny the application or petition.  
 2 17. Respondent shall pay the Board its costs of investigation and enforcement  
 3 in the amount of \$5,002 prior to issuance of a new or reinstated license.

4 ACCEPTANCE

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

9  
10 DATED: AUG. 10, 2008

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 12 \_\_\_\_\_  
 13 David M. Quinn (Respondent)  
 14 Respondent

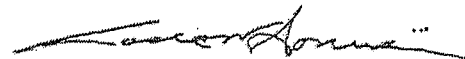
15 ENDORSEMENT

16 The foregoing Stipulated Surrender of License and Order is hereby respectfully  
 17 submitted for consideration by the Board.

18  
19 DATED: 8/12/2008

20 EDMUND G. BROWN JR., Attorney General  
of the State of California

21 JAMES M. LEDAKIS  
22 Supervising Deputy Attorney General

23   
 24 \_\_\_\_\_  
 25 CARL W. SONNE  
 26 Deputy Attorney General  
 27 Attorneys for Complainant

28  
BCI Matter ID: SD2006701367  
80269343.wpd

**Exhibit A**  
**Accusation No. 3031**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California

2 MARGARET A. LAFKO

Supervising Deputy Attorney General

3 JAMES M. LEDAKIS, State Bar No. 132645

Deputy Attorney General

4 California Department of Justice

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Attorneys for Complainant

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

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In the Matter of the Accusation Against:

Case No. 3031

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15 DAVID M. QUINN  
2534 Anacapa Drive #201  
Costa Mesa, CA 92626

**ACCUSATION**

16

17 Pharmacy Technician Registration No.  
TCH 31573

18

Respondent.

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Complainant alleges:

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**PARTIES**

22

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

25

2. On or about November 22, 1999, the California State Board of Pharmacy  
26 issued Original Pharmacy Technician Registration Number TCH 31 573 to DAVID M. QUINN  
27 (Respondent). Said license will expire on April 30, 2009, unless renewed.

28

1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), under  
3 the authority of the following sections of the Business and Professions Code (Code).

4 4. Section 4022 of the Code states:

5 "Dangerous drug" or "dangerous device" means any drug or device  
6 unsafe for self-use, except veterinary drugs that are labeled as such, and  
includes the following:

7 (a) Any drug that bears the legend: "Caution: federal law prohibits  
dispensing without prescription," "Rx only," or words of similar import.

8 (b) Any device that bears the statement: "Caution: federal law  
9 restricts this device to sale by or on the order of a . . . , " "Rx only," or  
words of similar import, the blank to be filled in with the designation of  
the practitioner licensed to use or order use of the device.

10 5. Section 4059 of the Code states, in pertinent part, that a person may not  
11 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,  
12 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the  
13 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

14 6. Section 4060 of the Code states:

15 No person shall possess any controlled substance, except that  
16 furnished to a person upon the prescription of a physician, dentist,  
podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a  
17 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner  
pursuant to Section 2836.1, or a physician assistant pursuant to Section  
18 3502.1. This section shall not apply to the possession of any controlled  
substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist,  
19 dentist, veterinarian, certified nurse-midwife, nurse practitioner, or  
physician assistant, when in stock in containers correctly labeled with the  
20 name and address of the supplier or producer.

21 7. Section 4300 of the Code states:

22 (a) Every license issued may be suspended or revoked.

23 (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 . . . .

24 8. Section 4301 of the Code states:

25 The board shall take action against any holder of a license who is  
26 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:

27 (f) The commission of any act involving moral turpitude,  
28 dishonesty, fraud, deceit, or corruption, whether the act is committed in



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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.

(p) Actions or conduct that would have warranted denial of a license.

9. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

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

11. Health & Safety Code § 11056 states in pertinent part:

(a) The controlled substances listed in this section are included in Schedule III.

(b) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of those isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(e) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts. Additionally, oral liquid preparations of dihydrocodeinone containing the above specified amounts may not contain as its nonnarcotic ingredients two or more antihistamines in combination with each other.

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12. Health & Safety Code § 11057 states in pertinent part:

(c) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(2) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane).

.....  
13. Health & Safety Code § 11058 states in pertinent part:

.....  
(c) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2:5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

.....  
14. Health & Safety Code § 11170, entitled, Controlled Substances for Self

Use, states that, "No person shall prescribe, administer, or furnish a controlled substance for himself."

15. Health & Safety Code § 11173, entitled, Fraud, Deceit, Misrepresentations

states, "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

**DRUGS DEFINED:**

16. Robitussin AC's generic name is Guaifenesin syrup with codeine which is a dangerous drug per section 4022 of the Code and a controlled substance per Health & Safety Code section 11058 (c) (1).

1           17.     Lomotil's generic name is Diphenoxylate/Atropine which is a dangerous  
2 drug and a controlled substance per Health & Safety Code section 11058 (c) (4).

3           18.     Darvocet-N's generic name is Propoxyphene/Acetaminophen which is a  
4 dangerous drug and a controlled substance per Health & Safety Code section 11057 (c) (2).

5           19.     Vicodin's generic name is Hydrocodone/Acetaminophen which is a  
6 dangerous drug and a controlled substance per Health & Safety Code section 11056 (e) (4).

7           20.     Ultram's generic name is Tramadol which is a dangerous drug.

8 **FACTUAL ALLEGATIONS:**

9           21.     From approximately July 2005 through December 2005, David M. Quinn,  
10 hereinafter Respondent, while on duty as a technician at Mission Hospital Regional Medical  
11 Center Pharmacy in Mission Viejo, California, stole and ingested approximately 27 bottles (118  
12 ml per bottle) of Guaifenesin with Codeine syrup, 64 tablets of Diphenoxylate with Atropine, 2  
13 tablets of Propoxyphene with Acetaminophen, and 75 tablets of Hydrocodone with  
14 Acetaminophen along with Tramadol, Loperamide and Pseudoephedrine for self administration.  
15 Respondent admitted that he did not have a prescription for the stolen drugs; he was subsequently  
16 terminated by his employer.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Possession of a Controlled Substances Without Prescription)**

19           22.     Respondent is subject to disciplinary action under section 4060 in that  
20 Respondent, while working at Mission Hospital Regional Medical Center Pharmacy (hereinafter  
21 Respondent's employer), admitted to taking and ingesting controlled substances and/or  
22 dangerous drugs in violation of Health & Safety Code section 11056 through 11058 as set forth  
23 in the factual allegations above.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Self Administration of Controlled Substances)**

26           23.     Respondent is subject to disciplinary action under section 4059(a) and  
27 Health & Safety Code section 11170 in that Respondent administered and/or furnished himself  
28 controlled substances and/or dangerous drugs as set forth in the factual allegations above.



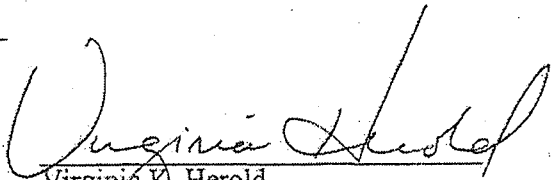
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PRAYER

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 TCH License No. 31573, issued to DAVID M. QUINN;
2. Ordering DAVID M. QUINN 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: 7/12/07



Virginia K. Herold  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant