

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

In the Matter of the Accusation Against:

Case No. 3347

BRANDEE L. SALAZAR
4041 Timahoe Drive
Modesto, CA 95356

Original Pharmacy Technician
Registration No. TCH 28683

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 on May 26, 2010.

It is so ORDERED on April 26, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Benneth H. Schell

KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3347

12 **BRANDEE L. SALAZAR**
4041 Timahoe Drive
13 Modesto, CA 95356

**STIPULATED SURRENDER
OF LICENSE AND ORDER**

14 Pharmacy Technician License No. TCH 28683

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

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

24 2. Brandee L. Salazar (Respondent) is representing herself in this proceeding and has
25 chosen not to exercise her right to be represented by counsel.

26 3. On or about March 16, 1999, the Board of Pharmacy issued Pharmacy Technician
27 Registration No. TCH 28683 to Brandee L. Salazar (Respondent). The Registration was in full

28 ///

1 force and effect at all times relevant to the charges brought in Accusation No. 3347 and will
2 expire on May 31, 2010, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3347 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on September 16, 2009.
7 On or about October 15, 2008, Respondent mailed her registration certificate, showing an
8 expiration date of May 31, 2008, back to the Board. A copy of Accusation No. 3347 is attached
9 as Exhibit A and incorporated herein by reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 3347. Respondent also has carefully read, and understands the effects of this
13 Stipulated Surrender of License and Order.

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

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

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 3347, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
26 License No. TCH 28683, for the Board's formal acceptance.

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

CONTINGENCY

10. 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 she may not withdraw her 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.

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

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

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 28683, issued to Respondent Brandee L. Salazar is surrendered and accepted by the Board of Pharmacy.

13. The surrender of Respondent's Pharmacy Technician License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

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

16. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply

1 with all the laws, regulations and procedures for licensure in effect at the time the application or
2 petition is filed, and all of the charges and allegations contained in Accusation No. 3347 shall be
3 deemed to be true, correct and admitted by Respondent when the Board determines whether to
4 grant or deny the application or petition.

5 17. Should Respondent ever apply or reapply for a new license or certification, or petition
6 for reinstatement of a license, by any other health care licensing agency in the State of California,
7 all of the charges and allegations contained in Accusation, No. 3347, shall be deemed to be true,
8 correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
9 proceeding seeking to deny or restrict licensure.

10 18. Respondent may not apply for licensure or petition for reinstatement in the State of
11 California for 3 years from the effective date of the decision.

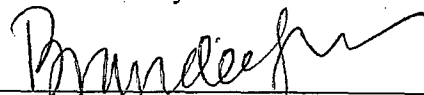
12 19. Respondent shall pay the Board its costs of investigation and enforcement in the
13 amount of \$6,725.00, upon the issuance of a new or reinstated license.

14 **ACCEPTANCE**

15 I have carefully read the Stipulated Surrender of License and Order. I understand the
16 stipulation and the effect it will have on my Pharmacy Technician License. I enter into this
17 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
18 be bound by the Decision and Order of the Board of Pharmacy.

19 DATED:

1/5/2010


BRANDEE L. SALAZAR
Respondent

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

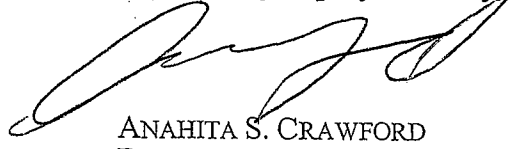
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: 2/11/10

EDMUND G. BROWN JR.
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General



ANAHITA S. CRAWFORD
Deputy Attorney General
Attorneys for Complainant

SA2009309609
30768126.doc

Exhibit A

Accusation No. 3347

1 EDMUND G. BROWN JR.
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 322-8311
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3347

12 **BRANDEE L. SALAZAR**
13 **4041 Timahoe Drive**
Modesto, Ca 95356

ACCUSATION

14 **Pharmacy Technician**
15 **License No. TCH 28683**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about March 16, 1999, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 28683 to Brandee L. Salazar (Respondent). The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on May 31, 2010, unless renewed.

25 //

26 //

27 //

28 ///

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

2

3 (l) The conviction of a crime substantially related to the qualifications,
4 functions, and duties of a licensee under this chapter. The record of conviction of a
5 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
6 States Code regulating controlled substances or of a violation of the statutes of this
7 state regulating controlled substances or dangerous drugs shall be conclusive
8 evidence of unprofessional conduct. In all other cases, the record of conviction shall
9 be conclusive evidence only of the fact that the conviction occurred. The board may
10 inquire into the circumstances surrounding the commission of the crime, in order to
11 fix the degree of discipline or, in the case of a conviction not involving controlled
12 substances or dangerous drugs, to determine if the conviction is of an offense
substantially related to the qualifications, functions, and duties of a licensee under this
chapter. A plea or verdict of guilty or a conviction following a plea of nolo
contendere is deemed to be a conviction within the meaning of this provision. The
board may take action when the time for appeal has elapsed, or the judgment of
conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under
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.

13

14 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
15 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,
16 including regulations established by the board or by any other state or federal
regulatory agency.

17

18 6. Section 4059 of the Code states, in pertinent part, that:

19 a) A person may not furnish any dangerous drug, except upon the prescription
20 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
21 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.

22 7. Section 4060 of the Code states:

23 "No person shall possess any controlled substance, except that furnished to a
24 person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
25 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
26 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
27 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
shall not apply to the possession of any controlled substance by a manufacturer,
28 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or

1 physician assistant, when in stock in containers correctly labeled with the name and
address of the supplier or producer.

2 "Nothing in this section authorizes a certified nurse-midwife, a nurse
3 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
stock of dangerous drugs and devices."

4 8. Section 4022 of the Code states

5 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
6 self-use in humans or animals, 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 restricts this
9 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
10 or order use of the device.

11 "(c) Any other drug or device that by federal or state law can be lawfully
dispensed only on prescription or furnished pursuant to Section 4006."

12 9. Health and Safety Code section 11350, subdivision (a) states:

13 Except as otherwise provided in this division, every person who possesses
14 ... (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
drug, unless upon the written prescription of a physician, dentist, podiatrist, or
15 veterinarian licensed to practice in this state, shall be punished by imprisonment in
the state prison.

16 10. Health and Safety Code section 11377, subdivision (a) states:

17 Except as authorized by law and as otherwise provided in subdivision (b) or
18 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
Division 2 of the Business and Professions Code, every person who possesses any
19 controlled substance which is (1) classified in Schedule III, IV, or V, and which is not
a narcotic drug, ... unless upon the prescription of a physician, dentist, podiatrist, or
20 veterinarian, licensed to practice in this state, shall be punished by imprisonment in a
county jail for a period of not more than one year or in the state prison.

21 11. Health and Safety Code section 11173, subdivision (a) states:

22 No person shall obtain or attempt to obtain controlled substances, or procure
23 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
24 material fact. . . .

25 ///

26 ///

27 ///

28 ///

1 COST RECOVERY

2 12. Section 125.3 of the Code states, 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.

6 CONTROLLED SUBSTANCES AT ISSUE

7 13. "Fiorinal with Codeine", a brand name for a butalbital compound containing
8 codeine, is a Schedule III non narcotic controlled substance as designated by Health and Safety
9 Code section 11056, subdivision (e)(2).

10 14. "Lorcet, Lortab, Vicodin, Norco" are brand names for hydrocodone combination
11 products containing acetaminophen and are Schedule III narcotic controlled substance as
12 designated by Health and Safety Code section 11056, subdivision (e)(4).

13 15. "Vicoprofen" a brand name for a hydrocodone combination product containing
14 Ibuprofen is a Schedule III narcotic controlled substance as designated by Health and Safety Code
15 section 11056, subdivision (e)(4).

16 16. "Xanax", a brand name for a Alprazolam is a Schedule IV non narcotic controlled
17 substance as designated by Health and Safety Code section 11057, subdivision (d)(1).

18 DANGEROUS DRUGS AT ISSUE

19 17. "Azithromycin", a generic form of Zithromax or Zmax, is a dangerous drug in that its
20 procurement requires a prescription.

21 18. "Carisoprodol", a generic form of Soma, is a dangerous drug in that its procurement
22 requires a prescription.

23 19. "Prilosec", a brand name for Omeprazole, is a dangerous drug in that its procurement
24 requires a prescription.

25 FIRST CAUSE FOR DISCIPLINE

26 (Unlawful Obtaining and Possession of Controlled Substances and Dangerous Drugs)

27 20. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
28 section 4301, subdivision (j) (violation of laws regulating controlled substances and dangerous

1 drugs) in that Respondent violated section 4060 (possession of a controlled substance without a
2 prescription), Health and Safety Code section 11350(a) (possession of narcotic controlled
3 substances), 11377(a) (possession of non-narcotic controlled substances) and 11173(a) (obtaining
4 controlled substances). The circumstances are as follows:

5 21. On or about October 20, 2000, Respondent was hired by a Target Store to work in
6 their pharmacy as a pharmacy technician. In or about May 2005 through December 2007,
7 Respondent diverted nearly 10,000 tablets of controlled substances and dangerous drugs to herself
8 from Target pharmacy. On December 20, 2007, Respondent admitted to stealing approximately
9 8,500 tablets of hydrocodone combination products¹ in various strengths, 240 tables of
10 Alprazolam, two boxes of Azithromycin, 1,200 tablets of Carisoprodol, and three boxes of
11 Prilosec. Respondent stated that she diverted the drugs because she has been diagnosed with
12 Multiple Sclerosis and her prescribed pain medication was not sufficient to control her pain.
13 Respondent states that at times, she was ingesting 12 to 15 hydrocodone/Acetamemaphin tablets
14 per day. Additionally, Respondent admitted to stealing Azithromycin tablets to provide to her
15 daughter.

16 SECOND CAUSE FOR DISCIPLINE

17 (Self-Administration/Use of Controlled Substances in a Dangerous Manner)

18 22. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
19 section 4301, subdivision (h) (self administer/use of controlled substances/dangerous drugs in a
20 dangerous manner) in that Respondent diverted and used dangerous drugs in large quantities per
21 day, in a manner dangerous or injurious to herself and/or others, as set for in paragraph 20, above.

22 THIRD CAUSE FOR DISCIPLINE

23 (Conviction of a Crime)

24 23. Respondent is subject to disciplinary action under section 4301, subdivision (l) in that
25 she was convicted of crimes which are substantially related to the qualifications, functions, and
26 duties of a Pharmacy Technician, as follows:

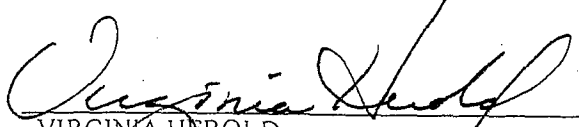
27 _____
28 ¹ Hydrocodone combination products are products such as Tylenol and Ibuprofens that are combined with Hydrocodone.

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

2. Ordering Brandee L. Salazar 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: 9/13/09


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

SA2009309609
30764931.doc