

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

In the Matter of the Accusation Against:

Case No. 3406

BRITTNEY SOARES

1334 E. Elm Court
Hanford, CA 93230

Original Pharmacy Technician Registration No.
TCH 80292

Respondent.

DECISION AND ORDER

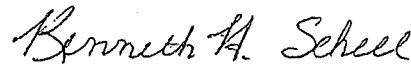
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 29, 2010.

It is so ORDERED on March 30, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

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

11 In the Matter of the Accusation Against:
12 **BRITNEY IRENE SOARES**
13 1334 E. ELM COURT
HANFORD, CA 93230
14 PHARMACY TECHNICIAN
15 LICENSE No. TCH 80292
16 Respondent.

Case No. 3406

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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 Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Edmund
23 G. Brown Jr., Attorney General of the State of California, by Karen R. Denvir, Deputy Attorney
24 General.

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

27 3. On or about December 17, 2007, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 80292 to Brittney Irene Soares (Respondent). The was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 3406 and will expire on
2 March 31, 2011, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3406 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 November 9, 2009.
7 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 3406 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 3406. 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. 3406, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
25 Registration No. TCH 80292 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 Registration without further
28 process.

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

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

13 12. This Stipulated Surrender of License and Order is intended by the parties to be an
14 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
15 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
16 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
17 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
18 executed by an authorized representative of each of the parties.

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

22 **ORDER**

23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 80292, issued
24 to Respondent Brittney Irene Soares is surrendered and accepted by the Board of Pharmacy.

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

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

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

5 4. If she ever applies for licensure or petitions for reinstatement in the State of
6 California, the Board shall treat it as a new application for licensure. Respondent may not apply
7 for licensure until three (3) years from the effective date of this decision. Respondent must
8 comply with all the laws, regulations and procedures for licensure in effect at the time the
9 application or petition is filed, and all of the charges and allegations contained in Accusation No.
10 3406 shall be deemed to be true, correct and admitted by Respondent when the Board determines
11 whether to grant or deny the application or petition.

12 5. Respondent shall pay the Board its costs of investigation and enforcement in the
13 amount of \$2,820.00 prior to issuance of a new or reinstated license.
14

15 ACCEPTANCE

16 I have carefully read the Stipulated Surrender of License and Order. I understand the
17 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
18 Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
19 be bound by the Decision and Order of the Board of Pharmacy.
20

21 DATED: 1-12-2010

Brittney Irene Soares

BRITTNEY IRENE SOARES
Respondent
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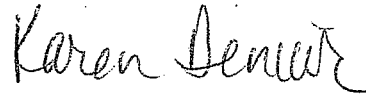
ENDORSEMENT

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: December 16, 2009

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
ARTHUR D. TAGGART
Supervising Deputy Attorney General



KAREN R. DENVIR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A
Accusation No. 3406

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2 ARTHUR D. TAGGART
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3 KAREN R. DENVER
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6 Telephone: (916) 324-5333
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. 3406

12 **BRITNEY IRENE SOARES**
1334 E. ELM COURT
13 HANFORD, CA 93230

A C C U S A T I O N

14 PHARMACY TECHNICIAN
15 LICENSE NO. TCH 80292

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 17, 2007, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 80292 to Brittney Irene Soares (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on March 31, 2011, unless renewed.

26 ///

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28 ///

JURISDICTION

1
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 unless otherwise indicated.

5 4. Section 4300 of the Code states, in pertinent part:

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

7 (b) The board shall discipline the holder of any license issued by the board, whose default
8 has been entered or whose case has been heard by the board and found guilty, by any of the
9 following methods:

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

12 (3) Suspending his or her right to practice for a period not exceeding one year.

13 (4) Revoking his or her license.

14 (5) Taking any other action in relation to disciplining him or her as the board in its
15 discretion may deem proper.

16 (c) The board may refuse a license to any applicant guilty of unprofessional conduct. . . .

17 5. Section 4301 of the Code states, in pertinent part:

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

21 . . .

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

25 . . .

26 (h) The administering to oneself, of any controlled substance . . .

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

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...
(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled 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

...
(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 or by any other state or federal regulatory agency.

(p) Actions or conduct that would have warranted denial of a license. . . .
6. Section 118, subdivision (b), of the Code provides that the expiration 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.

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

5 CONTROLLED SUBSTANCES AT ISSUE

6 8. “Vicodin” and “Norco” are brand names for hydrocodone with acetaminophen, which
7 is an opiate and a Schedule III controlled substance as designated by Health & Safety Code
8 section 11056, subdivision (e)(4).

9 OTHER MATTERS

10 9. Federal law prohibits a pharmacy from employing any person who has been
11 convicted of a felony offense relating to controlled substances. (21 C.F.R. § 1301.76)

12 FIRST CAUSE FOR DISCIPLINE

13 (Criminal Conviction)

14 10. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
15 that Respondent was convicted of a crime substantially related to the qualifications, functions and
16 duties of a licensed pharmacy technician, as follows:

17 11. On or about March 20, 2008, Respondent was convicted on her plea of guilty to one
18 felony count of violating Health and Safety Code section 11173(a)(Obtaining a Controlled
19 Substance by Fraud, Deceit, Misrepresentation or Subterfuge) in *People v. Brittny Irene Soares*
20 (Super. Ct. Tulare County, 2008, No. VCF199904).

21 SECOND CAUSE FOR DISCIPLINE

22 (Acts Involving Moral Turpitude and Dishonesty)

23 12. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
24 that she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.
25 Specifically, Respondent, per her own admission, illegally diverted a total of 60 tablets of
26 Vicodin, while on duty as a registered pharmacy technician, in violation of law. Additionally,
27 Respondent admitted to being responsible for diverting one tablet of hydrocodone-containing
28 medication during the later part of 2007, the exact date of which is not known.

1 THIRD CAUSE FOR DISCIPLINE

2 (Self-Administration of a Controlled Substance)

3 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
4 that she administered a controlled substance to herself. Specifically, on unknown multiple dates,
5 believed to include a date sometime in the later part of 2007, as well as dates believed to be
6 included in the months of January and February of 2008, all the exact dates which are unknown,
7 and per her admission, Respondent self-administered hydrocodone-containing schedule III
8 controlled substances, in violation of law.

9 FOURTH CAUSE FOR DISCIPLINE

10 (Violation of Federal or State Statutes)

11 14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
12 (o), in that she violated the statutes of this state regulating controlled substances and dangerous
13 drugs, as set forth in paragraphs 10 and 12 above.

14 FIFTH CAUSE FOR DISCIPLINE

15 (Acts Warranting Denial of a License)

16 15. Respondent is subject to disciplinary action under section 4301, subdivision (p), in
17 that she committed acts that would warrant denial of a license, as set forth in paragraphs 10 and
18 12 above.

19 PRAYER

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

22 1. Revoking or suspending Pharmacy Technician Registration Number TCH 80292,
23 issued to Brittney Irene Soares;

24 2. Ordering Brittney Irene Soares to pay the Board of Pharmacy the reasonable costs of
25 the investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

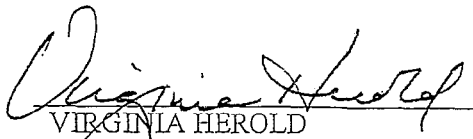
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3. Taking such other and further action as deemed necessary and proper.

DATED: 10/27/09



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

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