

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

In the Matter of the Accusation Against:

Case No. 3504

CARL ROBERT PALAZOT
1671 Parrot Street
San Diego, CA 92105

Pharmacy Technician License No. TCH 37328

Respondent.

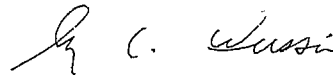
DECISION AND ORDER

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 15, 2011.

It is so ORDERED March 16, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **CARL ROBERT PALAZOT**
13 **1671 Parrot Street**
14 **San Diego, CA 92105**

15 **Pharmacy Technician Registration No. TCH**
16 **37328**

17 Respondent.

Case No. 3504

OAH No. 2010090642

STIPULATED SURRENDER OF
LICENSE AND ORDER

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 Rita M. Lane, Deputy Attorney
24 General.
- 25 2. Respondent Carl Robert Palazot is representing himself in this proceeding and has
26 chosen not to exercise his right to be represented by counsel.
- 27 3. On or about December 12, 2001, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 37328 to Carl Robert Palazot (Respondent). The Pharmacy Technician

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation
2 No. 3504 and will expire on October 31, 2011, unless renewed.

3 JURISDICTION

4 4. First Amended Accusation No. 3504 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The First
6 Amended Accusation and all other statutorily required documents were properly served on
7 Respondent on November 10, 2010. Respondent timely filed his Notice of Defense contesting
8 the Accusation. A copy of First Amended Accusation No. 3504 is attached as Exhibit A and
9 incorporated by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations in First
12 Amended Accusation No. 3504. Respondent also has carefully read, and understands the effects
13 of this Stipulated Surrender of License and Order.

14 6. Respondent is fully aware of his 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 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 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 First
25 Amended Accusation No. 3504, agrees that cause exists for discipline and hereby surrenders his
26 Pharmacy Technician Registration No. TCH 37328 for the Board's formal acceptance.

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

CONTINGENCY

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

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

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

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

ORDER

22
23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 37328, issued
24 to Respondent Carl Robert Palazot, is surrendered and accepted by the Board of Pharmacy.

25 14. 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 15. 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 16. Respondent shall cause to be delivered to the Board his wall license certificate and, if
4 one was issued, his pocket license on or before the effective date of the Decision and Order.

5 17. If Respondent 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 must comply
7 with all the laws, regulations and procedures for licensure in effect at the time the application or
8 petition is filed, and all of the charges and allegations contained in First Amended Accusation No.
9 3504 shall be deemed to be true, correct and admitted by Respondent when the Board determines
10 whether to grant or deny the application or petition. Respondent must wait three (3) years from
11 the effective date of the Decision and Order before he can reapply for licensure.

12 18. If Respondent should ever apply or reapply for a new license or certification, or
13 petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in First Amended Accusation No. 3504
15 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
16 of Issues or any other proceeding seeking to deny or restrict licensure.

17 19. Respondent shall pay the Board its costs of investigation and enforcement in the
18 amount of \$4,462.50 prior to issuance of a new or reinstated license.

19 ACCEPTANCE

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

24
25 DATED: 11/30/10

C. Palazot
26 CARL ROBERT PALAZOT
27 Respondent
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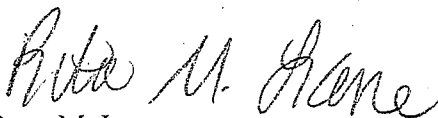
ENDORSEMENT

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: November 30, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



RITA M. LANE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 3504

1 EDMUND G. BROWN JR.
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 RITA M. LANE
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11 In the Matter of the Accusation Against:

Case No. 3504

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13 **1671 Parrot Street**
14 **San Diego, CA 92105**

FIRST AMENDED ACCUSATION

15 **Pharmacy Technician Registration No. TCH**
16 **37328**

Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this First Amended 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 December 12, 2001, the Board of Pharmacy issued Pharmacy Technician
24 Registration No. TCH 37328 to Carl Robert Palazot (Respondent). The Pharmacy Technician
25 Registration was in full force and effect at all times relevant to the charges brought herein and
26 will expire on October 31, 2011, unless renewed.

27 ///

28 ///

JURISDICTION

3. This First Amended 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 (Code) unless otherwise indicated.

4. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or 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.

5. Section 4300 of the Code states:

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

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

....

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code states:

(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be

1 taken when the time for appeal has elapsed, or the judgment of conviction has been
2 affirmed on appeal, or when an order granting probation is made suspending the
3 imposition of sentence, irrespective of a subsequent order under the provisions of
4 Section 1203.4 of the Penal Code.

5 (d) The Legislature hereby finds and declares that the application of this
6 section has been made unclear by the holding in *Petropoulos v. Department of*
7 *Real Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has
8 placed a significant number of statutes and regulations in question, resulting in
9 potential harm to the consumers of California from licensees who have been
10 convicted of crimes. Therefore, the Legislature finds and declares that this section
11 establishes an independent basis for a board to impose discipline upon a licensee,
12 and that the amendments to this section made by Senate Bill 797 of the 2007 -08
13 Regular Session do not constitute a change to, but rather are declaratory of,
14 existing law.

15
16
17 8. Section 492 of the Code states:

18 Notwithstanding any other provision of law, successful completion of any
19 diversion program under the Penal Code, or successful completion of an alcohol
20 and drug problem assessment program under Article 5 (commencing with section
21 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
22 agency established under Division 2 ([Healing Arts] commencing with Section
23 500) of this code, or any initiative act referred to in that division, from taking
24 disciplinary action against a licensee or from denying a license for professional
25 misconduct, notwithstanding that evidence of that misconduct may be recorded in
26 a record pertaining to an arrest.

27 9. Section 493 of the Code states:

28 Notwithstanding any other provision of law, in a proceeding conducted by
a board within the department pursuant to law to deny an application for a license
or to suspend or revoke a license or otherwise take disciplinary action against a
person who holds a license, upon the ground that the applicant or the licensee has
been convicted of a crime substantially related to the qualifications, functions, and
duties of the licensee in question, the record of conviction of the crime shall be
conclusive evidence of the fact that the conviction occurred, but only of that fact,
and the board may inquire into the circumstances surrounding the commission of
the crime in order to fix the degree of discipline or to determine if the conviction is
substantially related to the qualifications, functions, and duties of the licensee in
question.

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
and 'registration.'

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1 10. Section 4301 of the Code states:

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

6

7 (h) The administering to oneself, of any controlled substance, or the use of
8 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
9 dangerous or injurious to oneself, to a person holding a license under this chapter,
10 or to any other person or to the public, or to the extent that the use impairs the
11 ability of the person to conduct with safety to the public the practice authorized by
12 the license.

13

14 (i) The conviction of a crime substantially related to the qualifications,
15 functions, and duties of a licensee under this chapter. The record of conviction of
16 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
17 States Code regulating controlled substances or of a violation of the statutes of this
18 state regulating controlled substances or dangerous drugs shall be conclusive
19 evidence of unprofessional conduct. In all other cases, the record of conviction
20 shall be conclusive evidence only of the fact that the conviction occurred. The
21 board may inquire into the circumstances surrounding the commission of the
22 crime, in order to fix the degree of discipline or, in the case of a conviction not
23 involving controlled substances or dangerous drugs, to determine if the conviction
24 is of an offense substantially related to the qualifications, functions, and duties of a
25 licensee under this chapter. A plea or verdict of guilty or a conviction following a
26 plea of nolo contendere is deemed to be a conviction within the meaning of this
27 provision. The board may take action when the time for appeal has elapsed, or the
28 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.

REGULATIONS

11. California Code of Regulations, title 16 (CCR), section 1769, provides in pertinent
part:

.....

(b) When considering the suspension or revocation of a facility or a
personal license on the ground that the licensee or the registrant has been

1 convicted of a crime, the board, in evaluating the rehabilitation of such person and
2 his present eligibility for a license will consider the following criteria:

- 3 (1) Nature and severity of the act(s) or offense(s).
4 (2) Total criminal record.
5 (3) The time that has elapsed since commission of the act(s) or offenses(s).
6 (4) Whether the licensee has complied with all terms of parole, probation,
7 restitution or any other sanctions lawfully imposed against the licensee.
8 (5) Evidence, if any, of rehabilitation submitted by the licensee.

9 12. CCR section 1770, provides:

10 For the purpose of denial, suspension, or revocation of a personal or facility
11 license pursuant to Division 1.5 (commencing with Section 475) of the Business
12 and Professions Code, a crime or act shall be considered substantially related to
13 the qualifications, functions or duties of a licensee or registrant if to a substantial
14 degree it evidences present or potential unfitness of a licensee or registrant to
15 perform the functions authorized by this license or registration in a manner
16 consistent with the public health, safety, or welfare.

14 COSTS

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

19 DRUG

20 14. Methamphetamine is a Schedule II controlled substance as designated by Health
21 and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to Business
22 and Professions Code section 4022.

23 FIRST CAUSE FOR DISCIPLINE

24 (January 14, 2008 Conviction for Fighting-Offensive Words on August 21, 2007)

25 15. Respondent is subject to disciplinary action under sections 490 and 4301(1) for
26 conviction of a crime substantially related to the qualifications, functions, or duties of a pharmacy
27 technician, as more particularly alleged below:
28

1 a. On September 5, 2007, in the criminal proceeding titled, *People v. Carl Robert*
2 *Palazotti* (San Diego Superior Court Case No. SCD208566), Respondent was originally charged
3 with violating Penal Code section 368(b)(1), willful cruelty to an elder, dependent adult with
4 great bodily injury or death, a felony, and Penal Code section 422, making a criminal threat to
5 cause death or great bodily injury to another, a felony. As a result of a plea bargain, the charges
6 were amended and on or about January 14, 2008, Respondent was convicted on his plea of guilty
7 to a violation of Penal Code section 415 (Fighting-Offensive Words), a misdemeanor, and the
8 original charges were dismissed.

9 b. The facts and circumstances surrounding the conviction are that on or about
10 August 21, 2007, Respondent was living with his mother who was dying of cancer and he was her
11 caretaker. Respondent threatened his mother, who was making noises because she was in pain, to
12 be quiet or he would put a blow torch in her face and burn her.

13 c. As a result of the conviction, the imposition of the sentence was suspended.
14 Respondent was placed on summary probation for three years, and ordered to pay fees and fines
15 of \$1,170. At the time of sentencing, Respondent's mother was deceased.

16 SECOND CAUSE FOR DISCIPLINE

17 (Under the Influence of a Controlled Substance on December 4, 2008)

18 16. Respondent is subject to disciplinary action under Code section 4301(h) in that on or
19 about December 4, 2008, Respondent was under the influence of a controlled substance,
20 methamphetamine, an act constituting unprofessional conduct. The circumstances are as follows:

21 17. On December 4, 2008, police officers responded to a call of a disturbance at a
22 business. Upon arrival at the location, officers observed Respondent attempting to hide in some
23 bushes. Respondent was uncooperative and kept trying to pull away from the officers and refused
24 to respond to verbal commands. The officers had to subdue Respondent and handcuff him.
25 Respondent admitted to officers that he was waiting for a friend to return who had left to buy
26 drugs. Respondent exhibited symptoms consistent with being under the influence of a controlled
27 substance. Respondent was arrested and charged with being under the influence of drugs and
28 resisting a peace officer, misdemeanors.

1 18. As a result of the arrest, on or about February 17, 2009, a complaint was filed in
2 the matter of *The People of the State of California v. Carl R. Palazot*, in San Diego Superior
3 Court, case number M-071281, charging Respondent with the violation of Health and Safety
4 Code section 11550, subdivision (a) (under the influence of a controlled substance, to wit,
5 methamphetamine), and Penal Code section 148(a)(1) (resisting a peace officer), misdemeanors.
6 The complaint was amended on March 26, 2009 to add a third count for a violation of Penal Code
7 section 647(f) (drunk in public-drugs).

8 19. At a hearing on or about March 26, 2009, Respondent pled guilty to being drunk in
9 public (drugs). Deferred entry of judgment was granted and Respondent was ordered to enter a
10 diversion program pursuant to Penal Code section 1000 and pay fines in the amount of \$250.

11 PRAYER

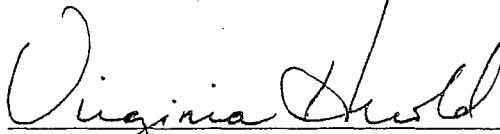
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacy Technician Number TCH 37328, issued to Carl
15 Robert Palazot;

16 2. Ordering Carl Robert Palazot to pay the Board of Pharmacy the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3; and

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

20
21 DATED: 11/10/10



22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

28 SD2009804901
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