

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

In the Matter of the Accusation Against:

Case No. 3632

**MORGAN LEIGH DIAZ**  
7500 East Quincy Avenue, F105  
Denver, CO 80237

Original Pharmacy Technician Registration No.  
TCH 72220

Respondent.

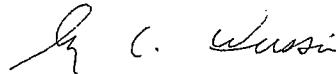
**DECISION AND ORDER**

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 March 9, 2011.

It is so ORDERED February 7, 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  
3 NICOLE R. COOK  
Deputy Attorney General  
4 State Bar No. 263607  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
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6 San Diego, CA 92186-5266  
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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 **MORGAN LEIGH DIAZ**  
13 **7500 East Quincy Avenue, F105**  
14 **Denver, CO 80237**

15 **Pharmacy Technician Registration No. TCH**  
**72220**

16 Respondent.

Case No. 3632

OAH No. 2010060047

**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 Nicole R. Cook, Deputy Attorney  
24 General.

25 2. Morgan Leigh Diaz (Respondent) is represented in this proceeding by attorney Nicole  
26 D. Tee, whose address is 110 West "C" Street, Ste. 2200, San Diego, CA 92101.

27 3. On or about October 4, 2006, the Board of Pharmacy issued Pharmacy Technician  
28 Registration No. TCH 72220 to Morgan Leigh Diaz (Respondent). The Pharmacy Technician

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation  
2 No. 3632 and will expire on July 31, 2012, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 3632 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 May 11, 2010.  
7 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation  
8 No. 3632 is attached as Exhibit A and incorporated by reference.

9 **ADVISEMENT AND WAIVERS**

10 5. Respondent has carefully read, fully discussed with counsel, and understands the  
11 charges and allegations in Accusation No. 3632. Respondent also has carefully read, fully  
12 discussed with counsel, and understands the effects of this Stipulated Surrender of License and  
13 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 confront and cross-examine  
16 the witnesses against her; the right to present evidence and to testify on her own behalf; the right  
17 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
18 documents; the right to reconsideration and court review of an adverse decision; and all other  
19 rights accorded by the California 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. 3632, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician  
25 Registration No. TCH 72220 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.

**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 or her counsel. By signing the stipulation, Respondent understands  
6 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the  
7 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its  
8 Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or  
9 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
10 and the Board shall not 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 72220, issued  
24 to Respondent Morgan Leigh Diaz, 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 registered pharmacy technician in  
2 California as of the effective date of the Board's Decision and Order.

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

5 17. Respondent may not reapply or petition the board for reinstatement of her surrendered  
6 technician license for three (3) years from the effective date of this decision. If she ever applies  
7 for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a  
8 new application for licensure. Respondent must comply with all the laws, regulations and  
9 procedures for licensure in effect at the time the application or petition is filed, and all of the  
10 charges and allegations contained in Accusation No. 3632 shall be deemed to be true, correct and  
11 admitted by Respondent when the Board determines whether to grant or deny the application or  
12 petition.

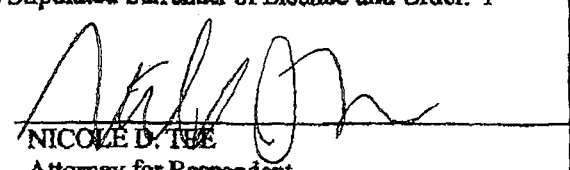
13 18. Respondent shall pay the Board its costs of investigation and enforcement in the  
14 amount of \$2,312.50 prior to issuance of a new or reinstated license.

15 **ACCEPTANCE**

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

21  
22 DATED: 10/22/10   
23 **MORGAN LEIGH DIAZ**  
Respondent

24 I have read and fully discussed with Respondent Morgan Leigh Diaz the terms and  
25 conditions and other matters contained in this Stipulated Surrender of License and Order. I  
26 approve its form and content.

27 DATED: 10/22/2010   
28 **NICOLE D. TEE**  
Attorney for 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: 10/26/10

Respectfully submitted,

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



NICOLE R. COOK  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 3632**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 NICOLE R. COOK  
Deputy Attorney General  
4 State Bar No. 263607  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3632

12  
13 MORGAN LEIGH DIAZ  
409 Requeza Street, D1  
14 Encinitas, CA 92024

**A C C U S A T I O N**

15 Pharmacy Technician Registration No. TCH  
16 72220

17 Respondent.

18  
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about October 4, 2006, the Board of Pharmacy issued Pharmacy Technician  
24 Registration Number TCH 72220 to Morgan Leigh Diaz (Respondent). The Pharmacy  
25 Technician Registration was in full force and effect at all times relevant to the charges brought  
26 herein and will expire on July 31, 2010, unless renewed.





1 and the board may inquire into the circumstances surrounding the commission of  
2 the crime in order to fix the degree of discipline or to determine if the conviction is  
3 substantially related to the qualifications, functions, and duties of the licensee in  
4 question.

5 As used in this section, "license" includes "certificate," "permit,"  
6 "authority," and "registration."

7 9. Section 4301 of the Code states:

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

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

15 . . . .

16 (h) The administering to oneself, of any controlled substance, or the use of  
17 any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
18 dangerous or injurious to oneself, to a person holding a license under this chapter,  
19 or to any other person or to the public, or to the extent that the use impairs the  
20 ability of the person to conduct with safety to the public the practice authorized by  
21 the license.

22 . . . .

23 (l) The conviction of a crime substantially related to the qualifications,  
24 functions, and duties of a licensee under this chapter. The record of conviction of  
25 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
26 States Code regulating controlled substances or of a violation of the statutes of this  
27 state regulating controlled substances or dangerous drugs shall be conclusive  
28 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

1 subsequent order under Section 1203.4 of the Penal Code allowing the person to  
2 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.

3 REGULATORY PROVISIONS

4 10. California Code of Regulations, title 16, section 1770, states:

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

10 11. California Code of Regulations, title 16, section 1769, states:

11 . . . .

12 (b) When considering the suspension or revocation of a facility or a  
13 personal license on the ground that the licensee or the registrant has been  
14 convicted of a crime, the board, in evaluating the rehabilitation of such person and  
his present eligibility for a license will consider the following criteria:

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

20 COST RECOVERY

21  
22 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
23 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.  
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1 FIRST CAUSE FOR DISCIPLINE

2 (March 6, 2007 Conviction for DUI on December 9, 2006)

3 13. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the  
4 Code in that she was convicted of crime that is substantially related to the qualifications, duties,  
5 and functions of a pharmacy technician. The circumstances are as follows:

6 a. On or about March 6, 2007, in a criminal proceeding entitled *The People of the*  
7 *State of California v. Morgan Leigh Diaz*, in San Diego Superior Court case number CN223306,  
8 Respondent was convicted on her plea of guilty for violation of Vehicle Code section 23152(B),  
9 driving with a blood alcohol content of .08 percent or more with admission a prior DUI on  
10 August 25, 2003. Both case number CN223306 and case number CN223894 (as set forth below  
11 in the second Cause for Discipline) were heard at the same time.

12 b. As a result of her conviction, Respondent was placed on summary probation  
13 for five years with terms and conditions, including but not limited to, 96 days in custody on  
14 consecutive weekends, payment of fines, fees and restitution, 5 days in public service  
15 program/volunteer work, attendance and completion of a Multiple Offender DUI Program in  
16 concurrence with Case Number CN223894.

17 c. The circumstances which led to the conviction were that on or about December  
18 9, 2007, an officer from the California Highway Patrol observed a vehicle weaving from side to  
19 side while traveling eastbound on State Route 78 near Woodland Parkway. After the officer  
20 initiated a traffic stop, the driver of the weaving vehicle was identified as Respondent. The  
21 officer observed that Respondent's eyes were red and glassy, that she swayed in a circular motion  
22 while standing and that she had an odor of an alcoholic beverage on her breath. Respondent  
23 admitted that she should not have been driving because she drank too much. She admitted to  
24 consuming 3-4 drinks and feeling "buzzed." The officer attempted to explain and demonstrate  
25 the Field Sobriety Tests; however, Respondent attempted the tests before the officer was able to  
26 finish explaining the tests. Respondent stated, "I've been through this before, I know what's  
27 going to happen." Based on Respondent's inability to successfully perform the Field Sobriety  
28 Tests and her objective symptoms, the officer arrested Respondent for driving under the

1 influence. Upon arrest, Respondent elected to take a breath test and her blood alcohol content  
2 registered at .16 by weight.

3 SECOND CAUSE FOR DISCIPLINE

4 (March 6, 2007 Conviction for DUI on January 12, 2007)

5 14. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the  
6 Code in that she was convicted of crime that is substantially related to the qualifications, duties,  
7 and functions of a pharmacy technician. The circumstances are as follows:

8 a. On or about March 6, 2007, in a criminal proceeding entitled *The People of the*  
9 *State of California v. Morgan Leigh Diaz*, in San Diego Superior Court case number CN223894,  
10 Respondent was convicted on her plea of guilty for violation of Vehicle Code section 23152(B),  
11 driving under the influence of alcohol with a blood alcohol content of .08 percent or greater with  
12 admission of the prior DUI on August 25, 2003. Sentencing was combined with the sentencing  
13 on her case Number 223306, as detailed in the First Cause for Discipline.

14 b. As a result of her conviction, Respondent was placed on summary probation  
15 for five years with terms and conditions, including but not limited to, 96 days in custody on  
16 consecutive weekends, payment of fines, fees and restitution, 5 days in public service  
17 program/volunteer work, attendance in completion of a Multiple Offender DUI Program in  
18 concurrence with Case Number CN223306.

19 c. The circumstances which led to the conviction were that on or about January  
20 12, 2007, an officer from the Oceanside Police Department initiated a traffic stop after observing  
21 a vehicle travelling at a high rate of speed in a residential area on South Tremont Street. The  
22 driver of the vehicle was identified as Respondent. Another officer, who responded to the scene,  
23 approached Respondent and attempted to ask her questions. The officer observed that  
24 Respondent had a strong odor of alcohol emitting from her breath and body. He also observed  
25 that she spoke with thick, slurred speech, she had blood-shot and watery eyes, and swayed side to  
26 side while she talked to the officer. Respondent failed to perform Field Sobriety Tests as  
27 explained and demonstrated. Respondent was arrested for driving under the influence. At the  
28

1 station, Respondent was administered two breath tests and her blood alcohol content registered at  
2 .17 and .18 percent by weight.

3 THIRD CAUSE FOR DISCIPLINE

4 (October 14, 2009 Conviction for Driving On a Suspended License on June 4, 2009)

5 15. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the  
6 Code in that she was convicted of crime that is substantially related to the qualifications, duties,  
7 and functions of a pharmacy technician. The circumstances are as follows:

8 a. On or about June 30, 2009, in a criminal proceeding entitled *The People of the*  
9 *State of California v. Morgan Leigh Diaz*, in San Diego Superior Court case number CN263749,  
10 Respondent was charged with violations of Vehicle Code section 14601.2(a) driving when  
11 privilege suspended for prior DUI conviction, a misdemeanor. It was further alleged that  
12 Respondent had a prior conviction in Riverside County Superior Court Case number 028782 for  
13 the violation of Vehicle Code Section 14601.2(d)(2), driving on a suspended license. The  
14 criminal complaint also charged Respondent with driving a high rate of speed greater than 70  
15 miles per hour in violation of Vehicle Code Section 22356(b), an infraction, and a violation of  
16 Vehicle Code Section 14601.5(a), driving when privilege suspended.

17 b. On or about August 4, 2009, Respondent failed to appear in court for the  
18 arraignment on this case. As a result, a bench warrant was issued in the amount of \$15,000. The  
19 bench warrant was later rescinded on August 6, 2009 when Respondent's attorney appeared on  
20 her behalf.

21 c. On or about October 14, 2009, Respondent pled guilty to the misdemeanor  
22 violation of Vehicle Code section 14601.2(a), driving while her license was suspended for a prior  
23 DUI conviction. As a result of her conviction, Respondent was placed on summary probation for  
24 a period of 3 years under terms and conditions including, 10 days in custody beginning on  
25 November 13, 2009, payment of all fines, fees, and restitution, and enrollment in a public service  
26 program or volunteer work which was ordered to be completed by November 4, 2010.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct – Use of Alcohol in a Manner Dangerous to Self or Others)

3 16. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
4 Respondent used alcohol to an extent which was dangerous to herself or others, as is set forth  
5 above in paragraphs 13 and 14, which are incorporated herein by reference as though fully set  
6 forth herein.

7 DISCIPLINARY CONSIDERATIONS

8 17. To determine the degree of discipline, if any, to be imposed on Respondent,  
9 complainant alleges that on or about August 25, 2003, in a criminal proceeding entitled *The*  
10 *People of the State of California v. Morgan Leigh Diaz*, in Riverside Superior Court case number  
11 SWM019848, Respondent was convicted on her plea of guilty for violation of Vehicle Code  
12 section 23152(A), driving under the influence of alcohol and Vehicle Code section 23152(B),  
13 driving with a blood alcohol content of .08 or more. The facts and circumstances which led to the  
14 conviction were that on or about June 22, 2003, Respondent was arrested for driving under the  
15 influence of alcohol. As a result of her conviction, Respondent was placed on summary probation  
16 for a period of 3 years. Respondent was ordered to obey all laws, sentenced to 15 days in jail,  
17 ordered to complete a sheriff's labor program commencing August 25, 2003, required to pay all  
18 fines and fees, ordered to abstain from the use of alcoholic beverages, required to attend and  
19 complete a First Offender DUI Program, among other terms and conditions.

20 18. Complainant further alleges that on or about September 14, 2005, in a criminal  
21 proceeding entitled *The People of the State of California v. Morgan Leigh Diaz*, in Riverside  
22 Superior Court case number SWM040469, Respondent was convicted on her plea of guilty for  
23 violation of Penal Code section 647(F), public intoxication, a misdemeanor. As a result of her  
24 plea, Respondent was ordered to pay fines, fees and restitution and the Court denied probation.

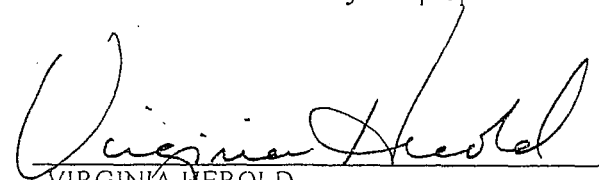
25 PRAYER

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Pharmacy issue a decision:  
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1. Revoking or suspending Pharmacy Technician Registration Number TCH 72220, issued to Morgan Leigh Diaz.
2. Ordering Morgan Leigh Diaz 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: 5/6/10



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

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