

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

In the Matter of the Accusation Against:

DOROTHY A. NEELY
915 Cerritos Road
Palm Springs, CA 92262

Pharmacy Technician Registration No.
RPH 23354

Respondent.

Case No. 5165

OAH No. 2014070550

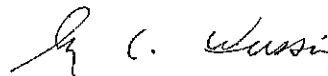
DECISION AND ORDER

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 November 19, 2014.

It is so ORDERED on November 14, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

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Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
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8 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5165

13 **DOROTHY A. NEELY**
14 **915 Cerritos Road**
Palm Springs, CA 92262

OAH No. 2014070550

15 **Pharmacist License No. RPH 23354**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 Respondent.

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18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
20 the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will
21 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

22 PARTIES

23 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
24 She brought this action solely in her official capacity and is represented in this matter by Kamala
25 D. Harris, Attorney General of the State of California, by Adrian R. Contreras, Deputy Attorney
26 General.

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1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 5165, if proven at a hearing, constitute cause for imposing discipline upon her Pharmacist
4 License No. RPH 23354.

5 9. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation and that those charges constitute cause for discipline.
8 Respondent hereby gives up her right to contest that cause for discipline exists based on those
9 charges.

10 10. Respondent understands that by signing this stipulation she enables the Board to issue
11 an order accepting the surrender of her Pharmacist License without further process.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
14 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
15 communicate directly with the Board regarding this stipulation and surrender, without notice to or
16 participation by Respondent or her counsel. By signing the stipulation, Respondent understands
17 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the
18 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
19 Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or
20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
21 and the Board shall not be disqualified from further action by having considered this matter.

22 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
24 thereto, shall have the same force and effect as the originals.

25 13. This Stipulated Surrender of License and Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
2 executed by an authorized representative of each of the parties.

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Pharmacist License No. RPH 23354, issued to Respondent
7 Dorothy A. Neely, is surrendered and accepted by the Board of Pharmacy.

8 1. The surrender of Respondent's Pharmacist License and the acceptance of the
9 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
10 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
11 license history with the Board of Pharmacy.

12 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
13 effective date of the Board's Decision and Order.

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

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

18 5. Respondent may not apply for any license, permit, or registration from the Board for
19 three years from the effective date of this decision. Respondent stipulates that should she apply
20 for any license from the Board on or after the effective date of this decision, all allegations set
21 forth in the Accusation shall be deemed to be true, correct, and admitted by Respondent when the
22 Board determines whether to grant or deny the application. Respondent shall satisfy all
23 requirements applicable to that license as of the date the application is submitted to the Board,
24 including, but not limited to taking and passing the California Pharmacist Licensure Examination
25 before the issuance of a new license. Respondent is required to report this surrender as
26 disciplinary action.

27 6. Respondent shall pay the agency its costs of investigation and enforcement in the
28 amount of \$3,579.00 before issuance of a new or reinstated license.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Charlotte Graham. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 10-10-14 *Dorothy A. Neely*
DOROTHY A. NEELY
Respondent

I have read and fully discussed with Respondent Dorothy A. Neely the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 10/13/2014 *Charlotte A. Graham*
CHARLOTTE A. GRAHAM, ESQ.
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: 10/17/2014 Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General
Adrian R. Contreras
ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5165

1 KAMALA D. HARRIS
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2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ADRIAN R. CONTRERAS
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13 **DOROTHY A. NEELY**
14 **915 Cerritos Road**
Palm Springs, CA 92262

A C C U S A T I O N

15 **Pharmacist License No. RPH 23354**

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 February 4, 1964, the Board of Pharmacy issued Pharmacist License
23 Number RPH 23354 to Dorothy A. Neely (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on March 31,
25 2015, unless renewed.

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1 **JURISDICTION**

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:

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. The
17 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
18 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
19 may issue the license subject to any terms or conditions not contrary to public policy, including,
20 but not limited to, the following:

21 "(1) Medical or psychiatric evaluation.

22 "(2) Continuing medical or psychiatric treatment.

23 "(3) Restriction of type or circumstances of practice.

24 "(4) Continuing participation in a board-approved rehabilitation program.

25 "(5) Abstention from the use of alcohol or drugs.

26 "(6) Random fluid testing for alcohol or drugs.

27 "(7) Compliance with laws and regulations governing the practice of pharmacy.

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1 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
2 would be grounds for suspension or revocation of license.

3 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
4 substantially related to the qualifications, functions, or duties of the business or profession for
5 which application is made.

6 "(b) Notwithstanding any other provision of this code, no person shall be denied a license
7 solely on the basis that he or she has been convicted of a felony if he or she has obtained a
8 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of
9 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has
10 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate
11 the rehabilitation of a person when considering the denial of a license under subdivision (a) of
12 Section 482.

13 "(c) A board may deny a license regulated by this code on the ground that the applicant
14 knowingly made a false statement of fact required to be revealed in the application for the
15 license."

16 7. Section 4301 of the Code states:

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

20 "...

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

24 "...

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

27 "...

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Act of Moral Turpitude or Dishonesty)**

3 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
4 in that Respondent committed theft, an act of moral turpitude or dishonesty. The circumstances
5 are:

6 13. On or about February 22, 2013, Respondent worked as a pharmacist at a CVS
7 Pharmacy in Cathedral City. She unlawfully diverted from the pharmacy benazepril for her own
8 use.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct - Violation of Laws Regulating**
11 **Controlled Substances and Dangerous Drugs)**

12 14. Complainant re-alleges and incorporates by reference the allegations set forth above
13 in paragraphs 12-13.

14 15. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j)
15 in that Respondent violated laws regulating controlled substances and dangerous drugs. The laws
16 include the following:

17 a. **Code section 4059, subd. (a)**: failure to furnish a dangerous drug upon the
18 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
19 pursuant to Section 3640.7.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Act Warranting Denial of Licensure)**

22 16. Complainant re-alleges and incorporates by reference the allegations set forth above
23 in paragraphs 12-15.

24 17. Respondent is subject to disciplinary action under section 4301, subdivision (p), in
25 that she committed an act that would have warranted denial of a license by stealing the dangerous
26 drug benazepril from her place of employment, an act enumerated in Code section 480,
27 subdivision (a)(2), which is cause for denial of a license to an applicant who committed an act of
28 dishonesty with the intent to substantially benefit herself or another.

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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 Pharmacist License Number RPH 23354, issued to Dorothy A. Neely;
2. Ordering Dorothy A. Neely 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; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

6/16/14

Virginia Herold

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

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