

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

In the Matter of the Accusation Against:

Case No. 5477

**DANIEL YOUNG OH
124 Roadrunner
Irvine, CA 92603**

**Intern Pharmacist Registration No. INT
29660**

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 at 5:00 p.m. on April 28, 2016.

It is so ORDERED on March 29, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

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Case No. 5477

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13 **124 Roadrunner**
14 **Irvine, CA 92603**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Intern Pharmacist Registration No. INT**
29660

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

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

25 2. Daniel Young Oh (Respondent) is represented in this proceeding by attorney
26 Nicholas Chang, Esq., whose address is 4199 Campus Drive, Ste. H, Irvine, CA 92612.

27 3. On or about May 17, 2012, the Board issued Intern Pharmacist Registration No. INT
28 29660 to Respondent Daniel Young Oh. The Intern Pharmacist Registration was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 5477. The Intern Pharmacist
2 Registration expired on May 31, 2015, and was subsequently cancelled.

3 JURISDICTION

4 4. Accusation No. 5477 was filed before the Board, and is currently pending against
5 Respondent. The Accusation and all other statutorily required documents were properly served
6 on Respondent on June 24, 2015. Respondent timely filed his Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 5477 is attached as Exhibit A, and incorporated by
8 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. 5477. 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 his 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 him; the right to present evidence and to testify on his 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. 5477, agrees that cause exists for discipline, and hereby surrenders his Intern Pharmacist
25 Registration No. INT 29660 for the Board's formal acceptance.

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

28 ///

1 I have read and fully discussed with Respondent Daniel Young Oh the terms and conditions
2 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
3 and content.

4 DATED: 2/8/2016



NICHOLAS CHANG, ESQ.
Attorney for Respondent

7 ENDORSEMENT

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

10 Dated: 2/9/2016

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
ANTOINETTE CINCOTTA
Supervising Deputy Attorney General


NICOLE R. TRAMA
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5477

1 KAMALA D. HARRIS
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A C C U S A T I O N

14 **Intern Pharmacist Registration No. INT 29660**

15 Respondent.

16
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 May 17, 2012, the Board of Pharmacy issued Intern Pharmacist
22 Registration Number INT 29660 to Daniel Young Oh (Respondent). The Intern Pharmacist
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on May 31, 2015, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a,
2 or 1203.41 of the Penal Code shall provide proof of the dismissal.

3 (d) A board may deny a license regulated by this code on the ground that the
4 applicant knowingly made a false statement of fact required to be revealed in the
5 application for the license.

6 7. Section 482 of the Code states:

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

9 (a) Considering the denial of a license by the board under Section 480; or

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

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

13 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
14 revoke a license on the ground that the licensee has been convicted of a crime substantially
15 related to the qualifications, functions, or duties of the business or profession for which the
16 license was issued.

17 9. Section 493 of the Code states:

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

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

10. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of
unprofessional conduct or whose license has been procured by fraud or

1 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
2 is not limited to, any of the following:

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

6 (g) Knowingly making or signing any certificate or other document that
7 falsely represents the existence or nonexistence of a state of facts.

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

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

16 (k) The conviction of more than one misdemeanor or any felony involving
17 the use, consumption or self-administration of any dangerous drug or alcoholic
18 beverage, or any combination of those substances.

19 (l) The conviction of a crime substantially related to the qualifications,
20 functions, and duties of a licensee under this chapter. The record of conviction of
21 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
22 States Code regulating controlled substances or of a violation of the statutes of this
23 state regulating controlled substances or dangerous drugs shall be conclusive
24 evidence of unprofessional conduct. In all other cases, the record of conviction
25 shall be conclusive evidence only of the fact that the conviction occurred. The
26 board may inquire into the circumstances surrounding the commission of the
27 crime, in order to fix the degree of discipline or, in the case of a conviction not
28 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.

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

2 **REGULATORY PROVISIONS**

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

4

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

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

15 12. California Code of Regulations, title 16, section 1770, states:

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

23 **COST RECOVERY**

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

28 **DRUGS**

14. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code
section 11054, subdivision (d).

1 FIRST CAUSE FOR DISCIPLINE

2 (April 10, 2015 Criminal Conviction for DUI on August 23, 2014)

3 15. Respondent has subjected his license to discipline under sections 490 and 4301,
4 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the
5 qualifications, duties, and functions of a pharmacist intern. The circumstances are as follows:

6 a. On or about April 10, 2015, in a criminal proceeding entitled *People of the State of*
7 *California v. Daniel Young Oh*, Orange County Superior Court, case number 14HM07469,
8 Respondent was convicted on his plea of guilty to violating Vehicle Code section 23152(a),
9 driving under the influence of alcohol and 23152(b), driving with a blood alcohol content of .08
10 percent or more, both misdemeanors.

11 b. As a result of the conviction, Respondent was placed on probation for five years,
12 sentenced to ninety days in custody, ordered to pay fines, required to complete an outpatient
13 program, MADD Victim's Impact Panel, and a 18 month multiple offender alcohol program.

14 c. The circumstances of the conviction are that on or about August 23, 2014, officers
15 were dispatched to a call of a possible DUI driver. The officers observed a vehicle that matched
16 the description given by dispatch and watched it pull into the parking lot and turns towards a Del
17 Taco restaurant. Officers observed that the vehicle almost collided with the raised curb as it
18 approached the drive-thru. Officers activated their emergency lights, siren, and air horn as the
19 vehicle continued to move forward through the drive-thru. The vehicle did not react or stop to the
20 lights and siren. Once the vehicle came to a stop at the drive-thru menu, the officers made
21 contact with the driver, who was identified as Respondent.

22 d. Officers noticed a strong smell of alcoholic beverage emitting from Respondent's
23 breath and person, and Respondent had bloodshot and watery eyes. Respondent told officers that
24 he felt "perfectly fine" but he failed the Field Sobriety tests. Respondent's blood alcohol content
25 was .17. Respondent was arrested for driving under the influence. During the search of
26 Respondent's vehicle, officers discovered a container with marijuana. Respondent told officers
27 that he did not have a valid medical recommendation to possess or smoke marijuana.
28

1 SECOND CAUSE FOR DISCIPLINE

2 (August 14, 2007 Criminal Conviction for Public Intoxication on April 8, 2007)

3 16. Respondent has subjected his license to discipline under sections 490 and 4301,
4 subdivision (l) of the Code in that he was convicted of a crime that is substantially related to the
5 qualifications, duties, and functions of a pharmacist intern. The circumstances are as follows:

6 a. On or about August 14, 2007, in a criminal proceeding entitled *People of the State of*
7 *California v. Daniel Oh*, Yolo County Superior Court, case number 07-2467, Respondent was
8 convicted on his plea of no contest to violating Penal Code section 647(f), public intoxication, a
9 misdemeanor.

10 b. As a result of the conviction, Respondent was placed on informal probation for one
11 year, ordered to pay fines and fees, and sentenced to fifteen days in custody. Respondent's
12 probation was terminated unsuccessfully on April 16, 2008 as a result of a conviction for driving
13 under the influence in Yolo County Superior court case number 08-959. On or about April 29,
14 2014, Respondent's conviction was dismissed pursuant to Penal Code section 1203.4/1203.4a.

15 c. The circumstances of the conviction are that on or about April 8, 2007, officers were
16 dispatched to a report of a "man down" in the street. Upon arrival, officers found Respondent
17 lying on his back with his head in the gutter and towel over his head. Officers called out to
18 Respondent several times and shook his shoulders but Respondent was unresponsive and
19 appeared unconscious. Officers observed an odor of alcohol on Respondent. Officers were able
20 to wake Respondent by rubbing him on the sternum. Upon awaking, Respondent attacked one of
21 the officers by swinging his arms and kicking. Officers struggled to restrain Respondent and had
22 to use a taser to control him. Respondent smelled of alcohol and urine and his crotch area of his
23 pants were wet. Respondent did not know his age, his address or social security number.
24 Respondent told officers that he was out partying but did not know how much alcohol he drank or
25 how he ended up lying in a gutter with a towel over his head.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Knowingly Making a False Statement of Fact)**

3 19. Respondent has subjected his license to disciplinary action under section 4301,
4 subdivisions (f) and (g) of the Code for dishonest acts in that he knowingly made a false
5 statement of fact on his application for licensure. The circumstances are as follows:

6 a. On or about May 8, 2012, Respondent signed an application for an Intern License
7 with the Board of Pharmacy. On the application, Respondent falsely marked "no" to the question
8 asking if he had ever been convicted of a crime. However, on or about August 14, 2007, in a
9 criminal proceeding entitled *People of the State of California v. Daniel Young Oh*, Yolo County
10 Superior Court, case number 07-2467, Respondent was convicted on his plea of no contest to
11 violating Penal Code section 647(f), public intoxication, a misdemeanor (as set forth in the
12 Second Cause for Discipline). Respondent failed to report this conviction to the Board and the
13 Board did not learn of the conviction until 2015, well after it licensed Respondent.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Acts that Would have Warranted the Denial of Licensure)**

16 20. Respondent has subjected his license to disciplinary action under section 4301,
17 subdivision (p) of the Code for acts that would have warranted the denial of a license under
18 Business and Professions Code section 480(d) for knowingly making a false statement of fact that
19 is required to be revealed in the application, as set forth in paragraph 19 (Fifth Cause for
20 Discipline), above.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Illegal Possession of Controlled Substance)**

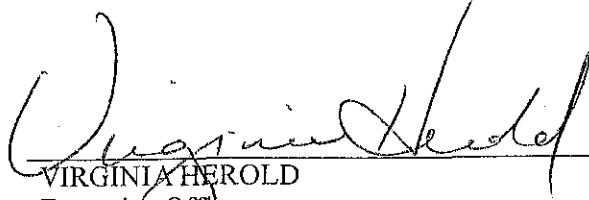
23 21. Respondent has subjected his license to disciplinary action under section 4301,
24 subdivision (j) of the Code in that Respondent illegally possessed controlled substances,
25 marijuana, on August 23, 2014, in violation of California and United States statutes regulating
26 controlled substances, as set forth in paragraph 15, above (First Cause for Discipline).

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

DATED:

6/13/15



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

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