

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

In the Matter of the Accusation Against:

LAUREN I. DRAKE
954 West G St.
Oakdale, CA 95361

**Original Pharmacy Technician Registration
No. TCH 28979**

Respondent.

Case No. 5639

OAH No. 2016070730

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 November 23, 2016.

It is so ORDERED on October 24, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **LAUREN I. DRAKE**
954 West G St.
13 Oakdale, CA 95361
14 **Original Pharmacy Technician Registration**
15 **No. TCH 28979**
16 Respondent.

Case No. 5639

OAH No. 2016070730

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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 Anahita S. Crawford, Deputy
24 Attorney General.

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

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1 3. On or about April 7, 1999, the Board issued Original Pharmacy Technician
2 Registration No. TCH 28979 to Lauren I. Drake (Respondent). The Original Pharmacy
3 Technician Registration was in full force and effect at all times relevant to the charges brought in
4 Accusation No. 5639 and will expire on January 31, 2017, unless renewed.

5 JURISDICTION

6 4. Accusation No. 5639 was filed before the (Board), and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent on April 21, 2016. Respondent timely filed her Notice of Defense contesting the
9 Accusation. A copy of Accusation No. 5639 is attached as Exhibit A and incorporated by
10 reference.

11 ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, and understands the charges and allegations in
13 Accusation No. 5639. Respondent also has carefully read, and understands the effects of this
14 Stipulated Surrender of License and Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
17 her own expense; the right to confront and cross-examine the witnesses against her; the right to
18 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
19 compel the attendance of witnesses and the production of documents; the right to reconsideration
20 and court review of an adverse decision; and all other rights accorded by the California
21 Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 8. Respondent admits the truth of each and every charge and allegation in Accusation
26 No. 5639, agrees that cause exists for discipline and hereby surrenders her Original Pharmacy
27 Technician Registration No. TCH 28979 for the Board's formal acceptance.

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1 1. Respondent surrenders pharmacy technician license number TCH 28979 as of the
2 effective date of this decision. Respondent shall relinquish her pharmacy technician license to the
3 board within ten (10) days of the effective date of this decision.

4 The surrender of respondent's license and the acceptance of the surrendered license by the
5 board shall constitute the imposition of discipline against respondent. This decision constitutes a
6 record of discipline and shall become a part of respondent's license history with the board.

7 Respondent understands and agrees that if he or she ever files an application for licensure
8 or a petition for reinstatement in the State of California, the board shall treat it as a new
9 application for licensure.

10 Respondent may not apply for any license, permit, or registration from the board for three
11 (3) years from the effective date of this decision. Respondent stipulates that should he or she
12 apply for any license from the board on or after the effective date of this decision, all allegations
13 set forth in the accusation shall be deemed to be true, correct and admitted by respondent when
14 the board determines whether to grant or deny the application. Respondent shall satisfy all
15 requirements applicable to that license as of the date the application is submitted to the board,
16 including, but not limited to certification by a nationally recognized body prior to the issuance of
17 a new license. Respondent is required to report this surrender as disciplinary action.

18 Respondent stipulates that should she apply for any license from the board on or after the
19 effective date of this decision, investigation and prosecution costs in the amount of \$6,323.75
20 shall be paid to the board prior to issuance of the license.

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

23 3. If Respondent should ever apply or reapply for a new license or certification, or
24 petition for reinstatement of a license, by any other health care licensing agency in the State of
25 California, all of the charges and allegations contained in Accusation, No. 5639 shall be deemed
26 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
27 other proceeding seeking to deny or restrict licensure.

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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Original Pharmacy Technician Registration. 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.

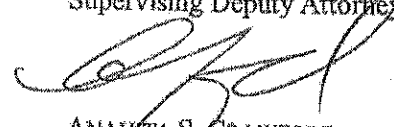
DATED: 9-19-16 
LAUREN I. DRAKE
Respondent

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: 9.20.16

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


ANAHITA S. CRAWFORD
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5639

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
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4 State Bar No. 209545
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10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5639

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954 West G St.
13 Oakdale, CA 95361

ACCUSATION

14 **Original Pharmacy Technician**
15 **Registration No. TCH 28979**

16 Respondent.

17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

21 **Pharmacy Technician Registration**

22 2. On or about April 7, 1999, the Board issued Original Pharmacy Technician
23 Registration Number TCH-28979 to Lauren I. Drake (Respondent). The original pharmacy
24 technician registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 31, 2017, unless renewed.

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JURISDICTION

3. Business and Professions Code (“Code”) section 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

4. Code section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

5. Code section 4301 states, in pertinent part:

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

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

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

(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

1 6. Code section 4022 states:

2 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
3 self-use in humans or animals, and includes the following:

4 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
5 without prescription," "Rx only," or words of similar import.

6 (b) Any device that bears the statement: "Caution: federal law restricts this
7 device to sale by or on the order of a _____," "Rx only," or words of similar import,
8 the blank to be filled in with the designation of the practitioner licensed to use or
9 order use of the device.

10 (c) Any other drug or device that by federal or state law can be lawfully
11 dispensed only on prescription or furnished pursuant to Section 4006.

12 COST RECOVERY

13 7. Code section 125.3 provides, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
17 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
18 included in a stipulated settlement.

19 DRUG

20 8. *Xanax*, a trade name for alprazolam, is a benzodiazepine, a central nervous system
21 depressant, and a Schedule IV controlled substance as designated by Health and Safety Code
22 section 11057(d)(1).

23 9. *Marijuana* is a Schedule I controlled substance as designated by Health and Safety
24 Code section 11054(d)(13), and is known to impair motor skills.

25 FACTUAL BACKGROUND

26 10. At the time of the events set forth herein, Respondent was employed as a pharmacy
27 technician at Sonora Regional Medical Center ("SRMC") in Sonora, California. On or about
28 January 29, 2015, while Respondent was on duty at SRMC as a pharmacy technician, one or more
of her colleagues observed that her speech was slow and slurred, her eyelids droopy, her pupils
were pinpoints, and her balance seemed unsteady. The incident was reported to SRMC

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1 management. The following day, Respondent was again observed by a colleague to have slow
2 speech and her eyes looked odd.

3 11. On or about February 4, 2015, SRMC management intercepted Respondent with a
4 drug test when she returned to work, concerned that Respondent would present to work impaired.
5 The drug test was positive for marijuana. When questioned, Respondent stated that on or about
6 February 3, 2015, she consumed marijuana, for which she did not have a recommendation.
7 Respondent also stated that she was taking Xanax and it made her "weird" at work.

8 12. On or about February 11, 2015, Respondent was terminated from SRMC.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Violation of State Laws Regulating Controlled Substances)**

11 13. Respondent is subject to disciplinary action pursuant to Code section 4301(j), on the
12 grounds of unprofessional conduct, in that Respondent violated statutes regulating controlled
13 substances and dangerous drugs. Specifically, on or about February 3, 2015, Respondent
14 unlawfully self-administered marijuana, a controlled substance, in violation of Health and Safety
15 Code Section 11170.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Use of Controlled Substances and/or Dangerous Drugs in a
18 Dangerous or Injurious Manner)**

19 14. Respondent is subject to disciplinary action pursuant to Code section 4301(h), in that
20 Respondent self-administered controlled substances and/or dangerous drugs to an extent or in a
21 manner as to be dangerous or injurious to herself or another, and/or to the extent that such use
22 impaired her ability to conduct with safety to the public the practice of a licensed pharmacy
23 technician as follows:

24 a. On or about January 29 through February 4, 2015, Respondent used Xanax, a
25 controlled substance, in a manner dangerous or injurious to herself and others, while working at
26 SRMC as a pharmacy technician, as set forth in paragraph 10-11, above.

27 b. On or about February 4, 2015, presented for work at SRMC as a pharmacy
28 technician; however, she tested positive for marijuana, as set forth in paragraph 11, above.

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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 Pharmacy Technician Registration Number TCH 28979, issued to Lauren I. Drake;
2. Ordering Lauren I. Drake 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: _____

4/15/16

Virginia Herold

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

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