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

In the Matter of the Accusation Against:

Case No. 5646

SHANNA MARIE JACKSON 1411 Santa Anita Oceanside, CA 92058

Pharmacy Technician Registration No. TCH 3677

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 January 22, 2016.

It is so ORDERED on December 23, 2015.

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		
2	GREGORY J. SALUTE Supervising Deputy Attorney General	· •	
3	GREGORY J. SALUTE Supervising Deputy Attorney General		
4	State Bar No. 164015 600 West Broadway, Suite 1800		
5	San Diego, CA 92101 P.O. Box 85266		
6	San Diego, CA 92186-5266 Telephone: (619) 645-2617		
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		
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12	In the Matter of the Accusation Against:	Case No. 5646	
13 14	SHANNA MARIE JACKSON 1411 Santa Anita Oceanside, CA 92058	STIPULATED SURRENDER OF LICENSE AND ORDER	
15	Pharmacy Technician Registration No. TCH 3677		
16 17	Respondent.		
18			
19	IT IS HEREBY STIPULATED AND AGI	REED by and between the parties to the above-	
20	entitled proceedings that the following matters are true:		
21	PARTIES		
22	Virginia Herold (Complainant) is the	e Executive Officer of the Board of Pharmacy.	
23	She brought this action solely in her official capa	acity and is represented in this matter by Kamala	
24	D. Harris, Attorney General of the State of California, by Gregory J. Salute, Supervising Deputy		
25	Attorney General.		
26	2. Shanna Marie Jackson (Respondent) is representing herself in this proceeding and ha		
27	chosen not to exercise her right to be represented by counsel.		
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3. On or about January 26, 1993, the Board of Pharmacy issued Pharmacy Technician Registration No. TCH 3677 to Shanna Marie Jackson (Respondent). The Pharmacy Technician Registration expired on November 30, 2014, and has not been renewed. Section 4300.1 of the Business and Professions Code provides, in pertinent part, that the expiration of a Board-issued license 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.

JURISDICTION

4. Accusation No. 5646 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on November 2, 2015. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 5646 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read, and understands the charges and allegations in
 Accusation No. 5646. Respondent also has carefully read, and understands the effects of this
 Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 5646, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician Registration No. TCH 3677 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician Registration without further process.

CONTINGENCY

- 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

<u>ORDER</u>

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 3677, issued to Respondent Shanna Marie Jackson, is surrendered and accepted by the Board of Pharmacy.

- 1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.
- 2. Respondent shall lose all rights and privileges as a pharmacy technician in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.
- 4. Respondent understands and agrees that if she ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure.

Respondent may not apply for any license, permit, or registration from the board for three (3) years from the effective date of this decision. Respondent stipulates that should she apply for any license from the board on or after the effective date of this decision, all allegations set forth in Accusation 5646 shall be deemed to be true, correct and admitted by Respondent when the board determines whether to grant or deny the application.

Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the Board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$469.42 prior to issuance of a new or reinstated license.

ACCEPTANCE

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

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ı	Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to	
2	be bound by the Decision and Order of the Board of Pharmacy.	
3	DATED: 11-16-2015 Shanna Marie Jackson	
4	DATED: 11-16-2015 Shanna Marie Jackson SHANNA MARIE JACKSON	
5	Respondent	
6		
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: \1-17-2015 Respectfully submitted,	
11	KAMALA D. HARRIS Attorney General of California	
12	GREGORY J. SALUTE Supervising Deputy Attorney General	
13	A Contract Contract	
15	1 Server Starte	
16	GREGORY I. SALUTE Supervising Deputy Attorney General Attorneys for Complainant	
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Exhibit A

Accusation No. 5646

1 2 3 4 5	KAMALA D. HARRIS Attorney General of California LINDA K. SCHNEIDER Senior Assistant Attorney General GREGORY J. SALUTE Supervising Deputy Attorney General State Bar No. 164015 600 West Broadway, Suite 1800 San Diego, CA 92101		
6	P.O. Box 85266 San Diego, CA 92186-5266 Telephone: (619) 645-2617 Facsimile: (619) 645-2061		
8 9 10	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:	Case No. 5646	
12	SHANNA MARIE JACKSON 1411 Santa Anita	ACCUSATION	
14	Oceanside, CA 92058 Pharmacy Technician Registration		
15	No. TCH 3677		
16	Respondent.		
17	Complainant alleges:		
19		TIES	
20			
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.		
	2. On or about January 26, 1993, the Board of Pharmacy issued Pharmacy Technician		
23	Registration Number TCH 3677 to Shanna Mari	e Jackson (Respondent). The Pharmacy	
24	Registration Number TCH 3677 to Shanna Mari Technician Registration expired on November 3	e Jackson (Respondent). The Pharmacy 0, 2014, and was cancelled on March 1, 2015.	
24 25	Registration Number TCH 3677 to Shanna Mari Technician Registration expired on November 30 JURISE	e Jackson (Respondent). The Pharmacy 0, 2014, and was cancelled on March 1, 2015. DICTION	
242526	Registration Number TCH 3677 to Shanna Mari- Technician Registration expired on November 3 JURISE 3. This Accusation is brought before the	e Jackson (Respondent). The Pharmacy 0, 2014, and was cancelled on March 1, 2015. DICTION e Board of Pharmacy (Board), Department of	
24 25	Registration Number TCH 3677 to Shanna Mari Technician Registration expired on November 30 JURISE	e Jackson (Respondent). The Pharmacy 0, 2014, and was cancelled on March 1, 2015. DICTION The Board of Pharmacy (Board), Department of dowing laws. All section references are to the	

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4. Section 4300(a) of the Code states "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code 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

6. Section 492 of the Code states:

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

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

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

(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. . . .

REGULATORY PROVISIONS

- 8. California Code of Regulations, title 16, section 1769(b) states:
- (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 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:
 - (1) Nature and severity of the act(s) or offense(s).
 - (2) Total criminal record.

- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
 - (5) Evidence, if any, of rehabilitation submitted by the licensee.
- 9. California Code of Regulations, title 16, section 1770, states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial 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.

COSTS

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

DRUGS

- 11. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.
- 12. Acetaminophen with oxycodone hydrochloride is Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and is a dangerous drug pursuant to Business & Professions Code section 4022.
- 13. Hydrocodone bitartate/acetaminophen is a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and is a dangerous drug pursuant to Business and Professions Code section 4022.
- 14. Tramadol hydrochloride is a dangerous drug pursuant to Business and Professions Code section 4022.

III

15. Section 4022 of the Code states

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

- (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
- (b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a ______," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
- (c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.
- 16. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

CAUSE FOR DISCIPLINE

(Violation of Statutes Regulating Controlled Substances)

- 17. Respondent has subjected her license to discipline under section 4301(j) of the Code in that she illegally possessed controlled substances on August 21, 2014, a violation of California statutes. The circumstances are as follows:
- a. On August 21, 2014, Respondent arrived at the California Correctional Institution with a friend to witness the friend's marriage to an inmate. The prison's Investigative Services Unit had previously monitored telephone communications between the inmate and Respondent's friend which indicated that she would be bringing controlled substances into the prison. Upon their arrival, correctional officers obtained consent from Respondent and her friend to conduct unclothed body searches for contraband. The searches were negative. The officers obtained consent to search a vehicle that had been rented by Respondent. In a purse belonging to Respondent, a prison investigation found methamphetamine, and 26.5 pills identified as Schedule II, III, and IV narcotics, and 41 non-narcotic pills. Respondent and her friend were arrested, charged with possession of controlled substances, and possession of controlled substances inside a correctional facility, and released to the custody of the Kern County Sheriff's Department.