

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

In the Matter of the Accusation Against:

**CHRISTOPHER SCOTT NEWELL
32862 Brookseed Drive
Trabuco Canyon, CA 92679**

**Pharmacy Technician Registration
No. TCH 142243**

Respondent.

Case No. 5833

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 December 29, 2016.

It is so ORDERED on November 29, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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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. 5833

13 **CHRISTOPHER SCOTT NEWELL**
32862 Brookseed Drive
14 Trabuco Canyon, CA 92679

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Pharmacy Technician Registration**
16 **No. TCH 142243**

17 Respondent.

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 Antoinette B. Cincotta,
24 Supervising Deputy Attorney General.

25 2. Christopher Scott Newell (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.

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28 ///

1 **CONTINGENCY**

2 10. This stipulation shall be subject to approval by the Board. Respondent understands
3 and agrees that counsel for Complainant and the staff of the Board may communicate directly
4 with the Board regarding this stipulation and surrender, without notice to or participation by
5 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
6 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
7 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
8 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
10 be disqualified from further action by having considered this matter.

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

22 **ORDER**

23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 142243,
24 issued to Respondent Christopher Scott Newell, is surrendered and accepted by the Board.

25 1. 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 of Pharmacy.

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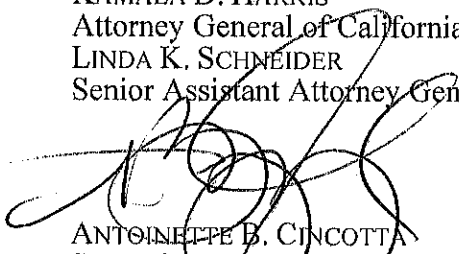
ENDORSEMENT

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: 10/25/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Senior Assistant Attorney General



ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5833

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A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 142243**

17 Respondent.

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 (Board), Department of Consumer Affairs.

22 2. On or about August 29, 2014, the Board issued Pharmacy Technician Registration
23 Number TCH 142243 to Christopher Scott Newell (Respondent). The Pharmacy Technician
24 Registration expired on November 30, 2015, and has not been renewed.

25 **JURISDICTION**

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

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

3 5. Section 4300.1 of the Code states:

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

8 STATUTORY PROVISIONS

9 6. Section 4011 of the Code states that "The board shall administer and enforce this
10 chapter and the Uniform Controlled Substances Act (Division 10 (commencing with Section
11 11000) of the Health and Safety Code)."

12 7. Section 4022 of the Code states:

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

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

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

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

23 8. Section 4026 of the Code states: "'Furnish' means to supply by any means, by sale or
24 otherwise."

25 9. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
26 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
27 veterinarian, or naturopathic doctor.

28 10. Section 4060 of the Code states, in pertinent part, that a person may not possess any
controlled substance, except that furnished to a person upon the prescription of a physician,
dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor.

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11. 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:

....

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

....

(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. . . .

12. Health and Safety Code section 11173, subdivision (a) states:

No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

13. United States Code, title 21, section 843, subdivision (a)(3) states:

(a) It shall be unlawful for any person knowingly or intentionally - (3) to acquire or obtain possession of a controlled substance by misrepresentation, fraud, forgery, deception, or subterfuge.

REGULATORY PROVISIONS

14. 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.

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1 COSTS

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

8 DRUGS

9 16. Acetaminophen with codeine/APAP, sold commercially as Tylenol #4, is a
10 Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(2),
11 and is a dangerous drug pursuant to Business and Professions Code section 4022.

12 17. Alprazolam, sold commercially as Xanax, is a Schedule IV controlled substance
13 under California Health and Safety Code section 11057(d)(1), and is classified as a dangerous
14 drug pursuant to Business and Professions Code section 4022.

15 18. Tramadol, sold commercially as Ultram, is a Schedule IV controlled substance under
16 Title 20 of the Code of Federal Regulations section 1308.14, and is classified as a dangerous drug
17 pursuant to Business and Professions Code section 4022.

18 19. Oxycontin, the controlled-release oral formulation of oxycodone, is a Schedule II
19 controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and is a
20 dangerous drug pursuant to Business and Professions Code section 4022.

21 20. Acetaminophen with oxycodone/APAP, sold commercially as Percocet, is Schedule
22 II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and is a
23 dangerous drug pursuant to Business & Professions Code section 4022.

24 21. Hydromorphone, sold commercially as Dilaudid, is a Schedule II controlled
25 substance as designated by Health and Safety Code section 11055(b)(1)(J) and is a dangerous
26 drug pursuant to Business and Professions Code section 4022.

27 22. Acetaminophen with hydrocodone bitartate/APAP, sold commercially as Vicodin,
28 Norco, et al. is a Schedule II controlled substance as designated by Health and Safety Code

1 section 11055(b)(1)(I), and is a dangerous drug pursuant to Business and Professions Code
2 section 4022.

3 **FACTUAL ALLEGATIONS**

4 23. On September 29, 2015, the Board received a faxed notification from CVS Pharmacy
5 #8846 that on September 25, 2015, Respondent was suspected of diverting controlled substances.

6 As a result of CVS Pharmacy's subsequent investigation into the incident, it was learned that
7 after a customer refused a bottle of Oxycontin because of the price, Respondent advised the on-
8 duty pharmacist that he may have dropped four tablets of the Oxycontin on the floor. The on-
9 duty pharmacist conducted a count of the Oxycontin on the shelf, and noticed five tablets were
10 missing from the prescription bottle. Respondent appeared to have located one tablet on the
11 floor, but four tablets were still missing. After viewing security camera videotape, it was
12 observed that while helping the customer, Respondent was seen looking over his shoulder at the
13 on-duty pharmacist while placing something into his pocket. Respondent was also reported to
14 have left the pharmacy multiple times during his shift to use the restroom.

15 24. In an interview with Respondent on September 30, 2015, Respondent admitted to the
16 CVS Regional Diversion Manager in a signed statement that starting in June 2015, he had taken
17 various quantities of Alprazolam, Tramadol, Oxycodone/APAP, Hydrocodone APAP,
18 Hydromorphone, Oxycontin, and Codeine/APAP from two CVS Pharmacy locations (#8846 and
19 #7079) for his personal use. Respondent also admitted he had consumed two tablets of
20 Oxycontin 20 mg. twenty minutes prior to the end of his shift on September 25, 2015.

21 Respondent's employment was terminated.

22 **FIRST CAUSE FOR DISCIPLINE**

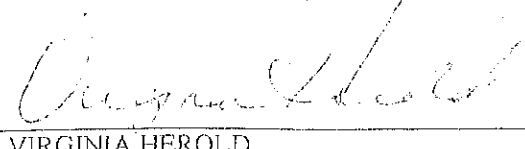
23 **(Commission of Acts Involving Dishonesty, Fraud, Deceit & Corruption)**

24 25. Respondent has subjected his registration to discipline under section 4301(f) of the
25 Code for unprofessional conduct in that he diverted acetaminophen with codeine, alprazolam,
26 tramadol, carisoprodol, Oxycontin, zolpidem tartrate, acetaminophen with oxycodone,
27 hydromorphone, morphine sulfate, and acetaminophen with hydrocodone from his employer
28 using fraud, deceit, and dishonesty, as described in paragraphs 23 and 24, above.

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

DATED: 8/16/16



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

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