

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

In the Matter of the Accusation Against:

**TRACY L. REES  
43347 Pledger Ct  
Hemet, CA 92544**

**Pharmacy Technician Registration No. TCH 32511**

Respondent.

Case No. 6057

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

**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 1, 2017.

It is so ORDERED on October 2, 2017.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

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2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **TRACY L. REES**  
13 **43347 Pledger Ct.**  
14 **Hemet, CA 92544**

15 **Pharmacy Technician Registration No. TCH**  
16 **32511**

17 Respondent.

Case No. 6057

OAH No. 2017070489

**STIPULATED SURRENDER OF**  
**LICENSE AND ORDER**

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 Xavier Becerra, Attorney General of the State of California, by Alan Macina, Deputy Attorney  
24 General.

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

27 3. On or about March 2, 2000, the Board issued Pharmacy Technician Registration No.  
28 TCH 32511 to Tracy L. Rees (Respondent). The Pharmacy Technician Registration was in full

1 force and effect at all times relevant to the charges brought in Accusation No. 6057 and will  
2 expire on April 30, 2019, unless renewed.

3 JURISDICTION

4 4. Accusation No. 6057 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 April 3, 2017. Respondent filed a Notice of Defense contesting the  
7 Accusation. A copy of Accusation No. 6057 is attached as Exhibit A and incorporated by  
8 reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in  
11 Accusation No. 6057. Respondent also has carefully read, and understands the effects of this  
12 Stipulated Surrender of License and Order.

13 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
14 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
15 her own expense; the right to confront and cross-examine the witnesses against her; the right to  
16 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to  
17 compel the attendance of witnesses and the production of documents; the right to reconsideration  
18 and court review of an adverse decision; and all other rights accorded by the California  
19 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. 6057, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician  
25 Registration No. TCH 32511 for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue  
27 an order accepting the surrender of her Pharmacy Technician Registration without further  
28 process.

CONTINGENCY

1  
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 she may not  
6 withdraw her 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 Portable Document Format  
13 (PDF) and facsimile signatures 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:

ORDER

22  
23       IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 32511, issued  
24 to Respondent Tracy L. Rees, is surrendered and accepted by the Board of Pharmacy.

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.

1           2.     Respondent shall lose all rights and privileges as a pharmacy technician in California  
2 as of the effective date of the Board's Decision and Order.

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

5           4.     If Respondent ever applies for licensure or petitions for reinstatement in the State of  
6 California, the Board shall treat it as a new application for licensure. Respondent must comply  
7 with all the laws, regulations and procedures for licensure in effect at the time the application or  
8 petition is filed, and all of the charges and allegations contained in Accusation No. 6057 shall be  
9 deemed to be true, correct and admitted by Respondent when the Board determines whether to  
10 grant or deny the application or petition.

11          5.     Respondent shall pay the agency its costs of investigation and enforcement in the  
12 amount of \$9,046.75 prior to issuance of a new or reinstated license.

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

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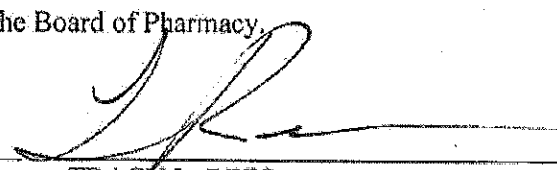
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my 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:

9/11/17



TRACY L. REES  
*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:

Sept. 7, 2017

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General



ALAN MACINA  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 6057**

1 XAVIER BECERRA  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 ALAN MACINA  
Deputy Attorney General  
4 State Bar No. 233540  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2031  
*Attorneys for Complainant*

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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
**DEPARTMENT OF CONSUMER AFFAIRS**  
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11 In the Matter of the Accusation Against:

Case No. 6057

12 **TRACY L. REES**  
13 **43347 Pledger Ct.**  
**Hemet, CA 92544**

**ACCUSATION**

14 **Pharmacy Technician Registration No. TCH**  
15 **32511**

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 March 2, 2000, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 32511 to Tracy L. Rees (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on April 30, 2019, unless renewed.

26 ///

27 ///

28 ///



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 4022 of the Code states

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

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

10 (b) Any device that bears the statement: "Caution: federal law restricts this  
11 device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of  
12 similar import, the blank to be filled in with the designation of the practitioner  
13 licensed to use or order use of the device.

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

16 5. Section 4300 of the Code states:

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

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

21 (1) Suspending judgment.

22 (2) Placing him or her upon probation.

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

25 (4) Revoking his or her license.

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

28 **STATUTORY PROVISIONS**

6. 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 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,

1 or to any other person or to the public, or to the extent that the use impairs the  
2 ability of the person to conduct with safety to the public the practice authorized  
3 by the license.

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

6 7. Section 4059 of the Code states:

7 (a) A person may not furnish any dangerous drug, except upon the  
8 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
9 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
10 dangerous device, except upon the prescription of a physician, dentist, podiatrist,  
11 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

12 8. Section 4060 of the Code states:

13 A person shall not possess any controlled substance, except that furnished to  
14 a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
16 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
17 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant  
18 pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or  
19 a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause  
20 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.  
21 This section shall not apply to the possession of any controlled substance by a  
22 manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist,  
23 optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse  
24 practitioner, or physician assistant, when in stock in containers correctly labeled  
25 with the name and address of the supplier or producer.

26 This section authorizes a certified nurse-midwife, a nurse practitioner, a  
27 physician assistant, or a naturopathic doctor, to order his or her own stock of  
28 dangerous drugs and devices.

9. Section 11170 of the California Health and Safety Code states:

No person shall prescribe, administer, or furnish a controlled substance for himself.

10. Section 482 of the Code states:

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

(b) Considering suspension or revocation of a license under Section 490.  
Each board shall take into account all competent evidence of rehabilitation  
furnished by the applicant or licensee.

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1 **REGULATIONS**

2 11. California Code of Regulations, title 16, section 1769, subdivision (b), states:

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

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

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

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

21 **COST RECOVERY**

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

26 **DRUGS AT ISSUE**

27 14. Phentermine, the generic name for Adiplex-P, is a Schedule IV controlled substance  
28 under California Health and Safety Code section 11057, subdivision (f)(4), and is classified as a  
dangerous drug under Business and Professions Code section 4022. Phentermine tablets are  
indicated for obesity and to promote weight loss.

**FACTS**

15 15. Respondent admitted taking ten to fifteen phentermine tablets over the course of  
16 about a year until confronted in July 2016. She admitted to consuming the pills at work while  
17 putting stock away at the pharmacy where she worked as a technician. She agreed that taking the  
18 pills was against store policy and illegal.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—Dishonesty)**

3 16. Respondent is subject to disciplinary action under Business and Professions Code  
4 section 4301, subdivision (f) for committing an act involving moral turpitude, dishonesty, fraud,  
5 or deceit in that during a one-year period, while Respondent was employed as a pharmacy  
6 technician at CVS Pharmacy, Respondent diverted numerous controlled substances tablets as  
7 described in paragraph 17 above.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct—Danger to the Public)**

10 17. Respondent is subject to disciplinary action under Business & Professions Code  
11 section 4301, subdivision (h) by administration to herself of a controlled substance or dangerous  
12 drug. Respondent admitted that she self-administered a controlled substance in a manner  
13 dangerous to herself as described in paragraph 17 above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct—Functioning under the Influence of a Controlled Substance)**

16 18. Respondent is subject to disciplinary action under Business & Professions Code  
17 section 4301, subdivision (j) self-administering controlled substances. Respondent admitted that  
18 she consumed a controlled substance while working as a pharmacy technician as described in  
19 paragraph 17 above.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Furnishing Dangerous Drugs Without a Prescription)**

22 19. Respondent is subject to disciplinary action under Business & Professions Code  
23 section 4060 by self-administration of a controlled substance or dangerous drug without a  
24 prescription. Respondent self-administered phentermine and did not have a prescription as  
25 described in paragraph 17 above.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Prescribing Controlled Substance for Self)**

3 20. Respondent is subject to disciplinary action under section Health & Safety Code  
4 section 11170 by self-administration of a controlled substance or dangerous drug. Respondent  
5 furnished phentermine for herself as described in paragraph 17 above.

6 **PRAYER**

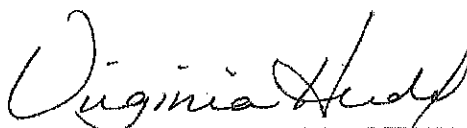
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
8 and that following the hearing, the Board of Pharmacy issue a decision:

9 1. Revoking or suspending Pharmacy Technician Registration Number TCH 32511,  
10 issued to Tracy L. Rees;

11 2. Ordering Tracy L. Rees to pay the Board of Pharmacy the reasonable costs of the  
12 investigation and enforcement of this case, pursuant to Business and Professions Code section  
13 125.3; and

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

15  
16  
17 DATED: 3/23/17



18 VIRGINIA HEROLD  
19 Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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