

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

In the Matter of the Accusation Against:

**STEPHEN WAYNE BRANDT
1614 Camphor Way
Lodi, CA 95242**

Pharmacist License No. RPH 31823

Respondent.

Case No. 6165

**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 October 25, 2017.

It is so ORDERED on September 25, 2017.

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



By

Amy Gutierrez, Pharm.D.
Board President

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9 **BEFORE THE**
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 6165

12 **STEPHEN WAYNE BRANDT**
13 **1614 Camphor Way**
14 **Lodi, CA 95242**

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 **Pharmacist License No. RPH 31823**

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 Xavier Becerra, Attorney General of the State of California, by Stanton W. Lee, Deputy Attorney
24 General.

25 2. Stephen Wayne Brandt (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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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 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:

22 ORDER

23 IT IS HEREBY ORDERED that Pharmacist License No. RPH 31823, issued to Respondent
24 Stephen Wayne Brandt, is surrendered and accepted by the Board of Pharmacy.

25 1. The surrender of Respondent's Pharmacist License and the acceptance of the
26 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
27 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
28 license history with the Board of Pharmacy.

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

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

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

8 5. Respondent may not apply for any license, permit, or registration from the board for
9 three years from the effective date of this decision. Respondent stipulates that should he or she
10 apply for any license from the board on or after the effective date of this decision, all allegations
11 set forth in Accusation No. 6165, shall be deemed to be true, correct and admitted by respondent
12 when the Board determines whether to grant or deny the application. Respondent shall satisfy all
13 requirements applicable to that license as of the date the application is submitted to the Board,
14 including, but not limited to taking and passing the California Pharmacist Licensure Examination
15 prior to the issuance of a new license. Respondent is required to report this surrender as
16 disciplinary action.

17 6. Respondent shall pay the agency its costs of investigation and enforcement in the
18 amount of \$1,568.04 prior to issuance of a new or reinstated license.

19 7. If Respondent should ever apply or reapply for a new license or certification, or
20 petition for reinstatement of a license, by any other health care licensing agency in the State of
21 California, all of the charges and allegations contained in Accusation, No. 6165 shall be deemed
22 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
23 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 Pharmacist License. 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:

8-9-2017



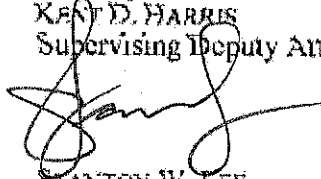
STEPHEN WAYNE BRANDT
Respondent

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:

8/9/17

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

STANTON W. LEE
Deputy Attorney General
Attorneys for Complainers

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Exhibit A

Accusation No. 6165

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11 In the Matter of the Accusation Against:

Case No. 6165

12 **STEPHEN WAYNE BRANDT**
13 1614 Camphor Way
14 Lodi, CA 95242

ACCUSATION

15 Pharmacist License No. RPH 31823

16 Respondent.

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 (Board), Department of Consumer Affairs.

21 2. On or about April 4, 1978, the Board issued Pharmacist License Number RPH 31823
22 to Stephen Wayne Brandt (Respondent). The Pharmacist License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on December 31, 2017, unless
24 renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

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 unless otherwise indicated.

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4. 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 . . .

5. 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.

6. 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:

....

(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, or 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 . . . or to any other person or to the public . . .

....

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

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2 (I) The conviction of a crime substantially related to the qualifications,
3 functions, and duties of a licensee under this chapter. The record of conviction of a
4 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
5 States Code regulating controlled substances or of a violation of the statutes of this
6 state regulating controlled substances or dangerous drugs shall be conclusive
7 evidence of unprofessional conduct. In all other cases, the record of conviction shall
8 be conclusive evidence only of the fact that the conviction occurred. The board may
9 inquire into the circumstances surrounding the commission of the crime, in order to
10 fix the degree of discipline or, in the case of a conviction not involving controlled
11 substances or dangerous drugs, to determine if the conviction is of an offense
12 substantially related to the qualifications, functions, and duties of a licensee under this
13 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
14 contendere is deemed to be a conviction within the meaning of this provision. The
15 board may take action when the time for appeal has elapsed, or the judgment of
16 conviction has been affirmed on appeal or when an order granting probation is made
17 suspending the imposition of sentence, irrespective of a subsequent order under
18 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
19 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
20 dismissing the accusation, information, or indictment. . .

21
22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Criminal Convictions)**

24 7. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
25 section 4301, subdivision (I), in that on or about March 10, 2017, in the criminal proceeding
26 entitled *People vs. Stephen Brandt*, San Joaquin County Superior Court, Case No. LOD-CR-
27 MDUI-2016-0015553, Respondent was convicted on his plea of nolo contendere of violating
28 Vehicle Code section 23152, subdivision (B) (driving under the influence of alcohol with a blood
alcohol content of .08% or greater) and Vehicle Code section 20002(A) (hit and run with property
damage), both misdemeanors. This conviction is for a crime substantially related to the
qualifications, functions, and duties of a pharmacist. The circumstances of the crime are as
follows: on November 4, 2016, Lodi Police Department Officer A. Blythe was dispatched to the
scene of a reported vehicle hit and run accident. While on route, Officer Blythe contacted the
vehicle subject of the hit and run report disabled and facing the wrong direction of travel in the
opposing lane of traffic. Officer Blythe observed the vehicles front bumper had become
dislodged approximate 100 yards away from the vehicle and that it had significant front end
damage. Upon contacting Respondent and speaking with him, Officer Blythe smelled a strong
odor of alcohol emanating from Respondent and Officer Blythe observed Respondent to have

1 red/watery eyes, slurred speech, and slow responses to questions. When asked to exit the vehicle,
2 Respondent was unable to stand on his own and the groin region of his pants appeared wet from
3 urine. Based on Respondent's inability to stand, Respondent was arrested for driving under the
4 influence of alcohol. A search of Respondent's vehicle resulted in the discovery of two empty
5 11.2 oz. bottles of beer on the front passenger floorboard. At the Lodi City Jail, Respondent
6 consented to a breath test and returned blood alcohol content readings of 0.19% and 0.19%. After
7 being Mirandized, Respondent admitted that he drank three 8 oz. glasses of Gin approximately 2-
8 2.5 hours prior to his encounter with law enforcement.

9 8. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
10 section 4301, subdivision (I), in that on or about March 9, 2017, in the criminal proceeding
11 entitled *People vs. Stephen Wayne Brandt*, Kern County Superior Court, Case No. DM090532A,
12 Respondent was convicted on his plea of nolo contendere of violating Vehicle Code section
13 23152, subdivision (A) (driving under the influence of alcohol), a misdemeanor. This conviction
14 is for a crime substantially related to the qualifications, functions, and duties of a pharmacist. The
15 circumstances of the crime are as follows: on May 6, 2016, California Highway Patrol (CHP)
16 Officer J. Cervantes responded to a dispatch call regarding a disabled vehicle with a possible
17 intoxicated driver. Upon arriving at the scene, additional law enforcement officers had already
18 responded to the scene. Officer Cervantes contacted Respondent whom he observed to have
19 difficulty standing and nearly fall, requiring Officer Cervantes to provide assistance in walking
20 Respondent to Officer Cervantes' patrol vehicle. Officer Cervantes detected the strong and
21 distinct odor of alcohol on Respondent's breath and person and noted that Respondent's speech
22 was heavily slurred. Upon questioning, Respondent admitted to Officer Cervantes that he had
23 been traveling to Coalinga and was consuming "Negra Modelos," on the way.¹ Officer Cervantes
24 then instructed and demonstrated field sobriety tests for Respondent to repeat, which he failed to
25 do. Respondent was arrested and consented to a chemical blood test which returned a blood
26 alcohol level of 0.169%.

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28 ¹ Negra Modelo is a beer.

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certificates substantiating the completion of five hours of continuing education after the deadline period.

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 Pharmacist License Number RPH 31823, issued to Stephen Wayne Brandt;
2. Ordering Stephen Wayne Brandt 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: 7/16/17

Virginia Herold

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

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