

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

In the Matter of the Accusation Against:

**DIPAK G. BHAKTA
PO Box 130
Los Alamitos, CA 90720-0130**

Pharmacist License No. RPH 48880

Respondent.

Case No. 6564

OAH No. 2019050206

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 January 23, 2020.

It is so ORDERED on December 24, 2019.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

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Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 **DIPAK G. BHAKTA**
14 **PO Box 130**
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15 **Pharmacist License No. RPH 48880**

16 Respondent.

Case No. 6564

OAH No. 2019050206

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17
18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
23 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
24 this matter by Xavier Becerra, Attorney General of the State of California, by David E. Hausfeld,
25 Deputy Attorney General.

26 2. Dipak G. Bhakta (Respondent) is represented in this proceeding by attorney Seth A.
27 Weinstein, whose address is: 15260 Ventura Blvd. Suite 1200, Sherman Oaks, CA 91403.

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1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the Board.

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

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

7 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
8 the Board shall treat it as a new application for licensure. Respondent must comply with all the
9 laws, regulations and procedures for licensure in effect at the time the application or petition is
10 filed, and all of the charges and allegations contained in Accusation No. 6564 shall be deemed to
11 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
12 the application or petition.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$7,803.75 prior to issuance of a new or reinstated license.

15 6. Respondent may not apply, reapply, or petition for any licensure or registration of the
16 Board for three (3) years from the effective date of the Decision and Order.

17 ACCEPTANCE

18 I have carefully read the above Stipulated Surrender of License and Order and have fully
19 discussed it with my attorney, Seth A. Weinstein. I understand the stipulation and the effect it
20 will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order
21 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
22 Board of Pharmacy.

23
24 DATED: 10/21/19


DIPAK G. BHAKTA
Respondent

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I have read and fully discussed with Respondent Dipak G. Bhakta the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____

10-22-2019

SETH A. WEINSTEIN, ESQ.
Attorney for 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: _____

Respectfully submitted,

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

DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

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1 I have read and fully discussed with Respondent Dipak G. Bhakta the terms and conditions
2 and other matters contained in this Stipulated Surrender of License and Order. I approve its form
3 and content.

4 DATED: _____
5 SETH A. WEINSTEIN, ESQ.
6 *Attorney for Respondent*

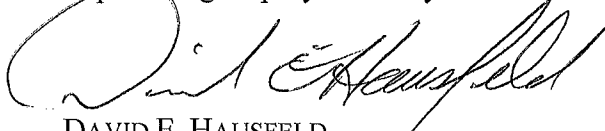
7 **ENDORSEMENT**

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: 10/22/19

Respectfully submitted,

11 XAVIER BECERRA
12 Attorney General of California
13 JAMES M. LEDAKIS
14 Supervising Deputy Attorney General



15 DAVID E. HAUSFELD
16 Deputy Attorney General
17 *Attorneys for Complainant*

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Exhibit A

Accusation No. 6564

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Supervising Deputy Attorney General
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Deputy Attorney General
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Attorneys for Complainant

9 **BEFORE THE**
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11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 6564

14 **DIPAK G. BHAKTA**
15 **PO Box 130**
Los Alamitos, CA 90720-0130

A C C U S A T I O N

16 **Pharmacist License No. RPH 48880**

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
22 as the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer
23 Affairs.

24 2. On or about August 13, 1996, the Board issued Pharmacist License Number RPH
25 48880 to Dipak G. Bhakta (Respondent). On or about September 11, 2017, the Pharmacist
26 License was placed on an inactive status. The Pharmacist License will expire on October 31,
27 2019, unless renewed.

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1 **JURISDICTION**

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

5 4. Business and Professions Code section 4300, subdivision (a), states, “Every license
6 issued may be suspended or revoked.”

7 5. Business and Professions Code section 4300.1 states:

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

12 **STATUTORY PROVISIONS**

13 6. Business and Professions Code section 482 states:

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

16 (a) Considering the denial of a license by the board under Section 480; or

17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Business and Professions Code section 490 provides, in pertinent part, that a board
21 may suspend or revoke a license on the ground that the licensee has been convicted of a crime
22 substantially related to the qualifications, functions, or duties of the business or profession for
23 which the license was issued.

24 8. Business and Professions Code section 493 states:

25 Notwithstanding any other provision of law, in a proceeding conducted by a
26 board within the department pursuant to law to deny an application for a license or to
27 suspend or revoke a license or otherwise take disciplinary action against a person who
28 holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive evidence
of the fact that the conviction occurred, but only of that fact, and the board may inquire
into the circumstances surrounding the commission of the crime in order to fix the

1 degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Business and Professions Code section 4301 states:

6 The board shall take action against any holder of a license who is guilty of
7 unprofessional conduct or whose license has been issued by mistake. Unprofessional
8 conduct shall include, but is not limited to, any of the following:

9 ...

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

15 ...

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

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

24 REGULATORY PROVISIONS

25 10. California Code of Regulations, title 16, section 1760, subdivision (a), incorporates
26 the Board's Disciplinary Guidelines by reference and requires that the Board consider the
27 Disciplinary Guidelines in reaching a decision in a disciplinary action.

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

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

5 (1) Nature and severity of the act(s) or offense(s).

6 (2) Total criminal record.

7 (3) The time that has elapsed since commission of the act(s) or offense(s).

8 (4) Whether the licensee has complied with all terms of parole, probation,
9 restitution or any other sanctions lawfully imposed against the licensee.

10 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

19 COSTS

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

26 FIRST CAUSE FOR DISCIPLINE

27 **(Unprofessional Conduct—Multiple Misdemeanor Convictions Involving Drugs or Alcohol)**

28 14. Respondent has subjected his license to disciplinary action under Business and
Professions Code sections 490 and 4301, subdivision (k), in that Respondent was convicted of
multiple misdemeanors involving the use, consumption, or self administration of dangerous drugs
or alcoholic beverages, or any combination of those substances. The circumstances are as
follows:

1 a. On or about September 26, 2007, in a criminal proceeding entitled *People of the*
2 *State of California v. Dipakkumar G. Bhakta, aka Dipakkumar Govindbhai Bhakta, aka*
3 *Dipakkumar Govind Bhakta*, in Orange County Superior Court, case number 07WM07859,
4 Respondent was convicted on his plea of guilty of violating Vehicle Code section 23152,
5 subdivision (b), driving a vehicle while having a BAC of 0.08 percent and more, a misdemeanor.
6 Respondent was found to have a BAC of 0.11 percent.¹

7 b. On or about August 16, 2018, in a criminal proceeding entitled *People of the*
8 *State of California v. Dipak Bhakta, aka Dipakkumar Govindbhai Bhakta, aka Dipakkumar G.*
9 *Bhakta, aka Dipakkumar Govind Bhakta*, in Orange County Superior Court, case number
10 18WF1633, Respondent was convicted on his plea of guilty of violating one count of Vehicle
11 Code section 23153, subdivision (g), driving under the combined influence of alcohol and drugs
12 causing bodily injury. Pursuant to Penal Code section 17, subdivision (b), the court reduced the
13 count from a felony to a misdemeanor. Respondent further admitted, and the court found true,
14 additional allegations in that in the commission of violating Vehicle Code section 23153,
15 Respondent was convicted of DUI within the previous 10 years (pursuant to Veh. Code § 23546),
16 and Respondent proximately caused bodily injury or death to more than one victim (pursuant to
17 Veh. Code § 23558).

18 c. The facts that led to the conviction in case number 18WF1633 are that on or
19 about March 13, 2017, at approximately 12:33 a.m., an officer with the California Highway Patrol
20 (CHP) responded to a report of an injury traffic collision. The investigation revealed that
21 Respondent was traveling on the freeway when he rear-ended a vehicle, causing both the victim's
22 vehicle and Respondent's vehicle to lose control and veer off the road. At approximately 12:51
23 a.m., upon making contact with Respondent, the officer detected a strong odor of an alcoholic
24 beverage emitting from Respondent. Respondent's eyes appeared red and watery, and his speech
25 was slow and slurred. Upon questioning, Respondent admitted to consuming one beer prior to
26 driving. The CHP officer noticed that Respondent's mouth was full of ice-plant. The CHP

27 ¹ On February 4, 2010, The Board issued Respondent a letter of admonishment as a result
28 of Respondent's September 26, 2007, conviction.

1 officer asked Respondent why he was eating ice-plant, and Respondent stated that it is part of his
2 diet and that he does not eat meat. Based on the collision investigation and the officer's
3 observations, Respondent was arrested for driving under the influence of alcohol causing bodily
4 injury to another person.²

5 d. On or about August 16, 2018, in a criminal proceeding entitled *People of the*
6 *State of California v. Dipak Bhakta aka Dipakkumar Govindbhai Bkakta, aka Dipakkumar G.*
7 *Bhakta, aka Dipakkumar Govind Bhakta*, in Orange County Superior Court, case number
8 18NM06138, Respondent was convicted on his plea of guilty of violating Vehicle Code section
9 23152, subdivision (a), driving under the influence of alcohol (DUI); and Vehicle Code section
10 23152, subdivision (b), driving a vehicle while having a blood alcohol concentration (BAC) of
11 0.08 percent and more, both misdemeanors. Respondent further admitted as to both counts, and
12 the court found true, additional allegations in that in the commission of violating Vehicle Code
13 section 23152, Respondent was convicted of DUI within the previous 10 years (pursuant to Veh.
14 Code § 23546), and Respondent had a BAC of 0.15 percent or more (pursuant to Veh. Code §
15 23578).

16 e. The facts that led to the conviction in case number 18NM06138 are that on or
17 about March 30, 2018, at approximately 11:13 p.m., an officer with the Placentia Police
18 Department was on duty near Placentia Avenue and Kimberly Avenue when the officer observed
19 a vehicle speeding and swerving, then hitting a center median underpass. The officer followed
20 the vehicle and conducted a traffic stop. Upon making contact with Respondent, who was driving
21 the vehicle, the officer detected a strong odor of alcoholic beverage emitting from Respondent's
22 breath and person. Respondent's eyes appeared bloodshot, droopy, and watery, and his speech
23 was slurred. Upon questioning, Respondent admitted to consuming alcoholic beverages prior to
24 driving. Respondent submitted to a series of field sobriety tests that he was unable to complete as
25 explained and demonstrated by the officer. Respondent refused to submit to a preliminary

26 _____
27 ² On or about October 26, 2017, the Board issued Respondent Citation No. CI 2016
28 74615, which included a \$5,000.00 fine and Order of Abatement for violating Business and
Professions Code section 4301, subdivisions (h), for the DUI arrest on March 13, 2017.
Respondent paid the fine in full.

1 alcohol screening. Placentia Police transported Respondent to jail where an officer observed
2 Respondent doing push-ups while inside the booking cell. The officer asked Respondent what he
3 was doing, and Respondent answered by saying “I’m trying to beat the system. . . . I’m trying to
4 sweat out the alcohol.” Based on the officer’s observations and Respondent’s admission,
5 Respondent was arrested for driving under the influence of alcohol. During processing,
6 Respondent provided a blood sample that was subsequently analyzed with a BAC of 0.16 percent.

7 f. As a result of the August 16, 2018, convictions, Respondent was granted
8 informal probation for five years, and ordered to serve 90 days in the Orange County Jail,
9 including 3 days of jail in lieu of payment of the balance of a fine. Respondent was further
10 ordered to complete an 18-month Multiple Offender DUI program, pay fines, fees, and restitution,
11 and to comply with all other terms of DUI probation. The sentence on Count 2 for violating
12 Vehicle Code section 23152, subdivision (b), was stayed pursuant to Penal Code section 654.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct—Dangerous Use of Alcohol)**

15 15. Respondent has subjected his license to disciplinary action under section 4301,
16 subdivision (h) of the Code, for unprofessional conduct in that on or about March 30, 2018, as
17 described in paragraph 13, above, he used alcoholic beverages to an extent or in a manner that
18 was dangerous and injurious to himself, and the public, when he operated a motor vehicle while
19 impaired by alcohol.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct—Conviction of Substantially Related Crime)**

22 16. Respondent has subjected his license to disciplinary action under Business and
23 Professions Code section 4301, subdivision (l), for unprofessional conduct in that on or about
24 March 30, 2018, as described in paragraph 13, above, he was convicted of a crime substantially
25 related to the qualifications, functions, and duties of a licensed pharmacist. Respondent’s
26 conviction, and his pattern of substance abuse, evidence to a substantial degree Respondent’s
27 present or potential unfitness to perform the functions of a licensed pharmacist in a manner
28 consistent with the public health, safety, or welfare.

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DISCIPLINARY CONSIDERATIONS

17. In determining the degree of discipline, Complainant alleges that based upon California Code of Regulations, title 16, section 1760; section 1769, subdivision (c); and the Board’s Disciplinary Guidelines; Respondent’s convictions fall under the most serious Category IV classification, as defined by the Disciplinary Guidelines, and warrant revocation in that Respondent’s convictions involved repeated or serious abuse of alcohol resulting in multiple and recent convictions for DUI, one of which involved injuries to others.

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 48880, issued to Respondent Dipak G. Bhakta;
- 2. Ordering Respondent Dipak G. Bhakta 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: April 5, 2019



ANNE SODERGREN
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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