

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

In the Matter of the Accusation Against:

NATHAN RICHARD NEWMAN, Respondent

Pharmacy Technician Registration No. TCH 121454

Agency Case No. 6933

DECISION AND ORDER

The attached Stipulated Surrender of License 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 20, 2021.

It is so ORDERED on December 21, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg Lippe", written in a cursive style.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 BRENT O. JEX
Deputy Attorney General
4 State Bar No. 235261
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7864
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 6933

13 **NATHAN RICHARD NEWMAN**
22010 Todd Valley Rd
14 Foresthill, CA 95631

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 **Pharmacy Technician Registration**
16 **No. TCH 121454**

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. Anne Sodergren (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 Brent O. Jex, Deputy Attorney
24 General.

25 2. Nathan Richard Newman (Respondent) is representing himself in this proceeding and
26 has chosen not to exercise his right to be represented by counsel.
27
28

1 3. On or about February 24, 2012, the Board issued Pharmacy Technician Registration
2 No. TCH 121454 to Respondent. The Pharmacy Technician Registration was in full force and
3 effect at all times relevant to the charges brought in Accusation No. 6933.

4 **JURISDICTION**

5 4. Accusation No. 6933 was filed before the Board, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on August 27, 2020. Respondent timely filed his Notice of Defense contesting the
8 Accusation. A copy of Accusation No. 6933 is attached as Exhibit A and incorporated by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 6933. Respondent also has carefully read, and understands the effects of this
13 Stipulated Surrender of License and Order.

14 6. Respondent is fully aware of his legal rights in this matter, including the right to a
15 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
16 his own expense; the right to confront and cross-examine the witnesses against him; the right to
17 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
18 the attendance of witnesses and the production of documents; the right to reconsideration and
19 court review of an adverse decision; and all other rights accorded by the California
20 Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 **CULPABILITY**

24 8. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 6933, agrees that cause exists for discipline and hereby surrenders his Pharmacy Technician
26 Registration No. TCH 121454 for the Board's formal acceptance.

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

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board 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 he may not withdraw his 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:

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 121454, issued to Respondent Nathan Richard Newman, is surrendered and accepted by the Board.

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.

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 his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

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

5. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 6933 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

6. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$10,934.25 prior to issuance of a new or reinstated license.

7. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 6933 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

///

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: _____
NATHAN RICHARD NEWMAN
Respondent

///
///

23
24
25
26
27
28

4

Stipulated Surrender of License (Case No. 6933)

ACCEPTANCE

1

I have carefully read the Stipulated Surrender of License and Order. I understand the

2

stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this

3

Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to

4

be bound by the Decision and Order of the Board of Pharmacy.

5

6

DATED: 10/14/2020

7



NATHAN RICHARD NEWMAN

8

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: November 3, 2020

Respectfully submitted,

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

/s/ Brent O. Jex

BRENT O. JEX
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 6933

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 BRENT O. JEX
Deputy Attorney General
4 State Bar No. 235261
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7864
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 6933

13 **NATHAN RICHARD NEWMAN**

14 10326 Lanier Lane
Stockton, CA 95219

ACCUSATION

15 **Pharmacy Technician Registration No.**
16 **TCH 121454**

17 Respondent.

18
19 **PARTIES**

20 1. Anne Sodergren (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 February 24, 2012, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 121454 to Nathan Richard Newman (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on April 30, 2021, unless renewed.

26 ///

27 ///

JURISDICTION

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

4. Code section 4011 provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code §§ 4000, *et seq.*] and the Uniform Controlled Substances Act [Health & Safety Code §§ 11000, *et seq.*].

5. Code 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.

...

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

6. Code 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.

7. Code 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 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.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(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 the extent the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

STATUTORY PROVISIONS

8. Code section 4022 defines a “dangerous drug” as any drug unsafe for self-use in humans or animals, including any drug that can only be lawfully dispensed on prescription or furnished pursuant to Section 4006.

9. Code section 4060 states:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6.

...

10. Health and Safety Code section 11173, subdivision (a) states that 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.

1 **COST RECOVERY**

2 11. Code section 125.3 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 being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **DEFINITIONS**

9 12. *Fentanyl* is designated a Schedule II controlled substance by Health and Safety Code
10 section 11057, subdivision (c)(8), and is a designated Schedule II controlled substance by the
11 Code of Federal Regulations, title 21, section 1308.12, subdivision (c)(9). Morphine is a
12 dangerous drug pursuant to Code section 4022.

13 13. *Morphine* is designated a Schedule II controlled substance by Health and Safety Code
14 section 11057, subdivision (b)(1)(L), and is a designated Schedule II controlled substance by the
15 Code of Federal Regulations, title 21, section 1308.12, subdivision (b)(1)(ix). Morphine is a
16 dangerous drug pursuant to Code section 4022.

17 14. *Heroin* is an illegal narcotic made from morphine.

18 15. *Narcan* is the brand name for naloxone, a medication to counter the effects of opioids
19 such as fentanyl and morphine.

20 **FACTUAL ALLEGATIONS**

21 16. On or about December 27, 2019, Respondent self-administered and overdosed on a
22 combination of prescription medication and unlawful narcotics that included heroin, fentanyl and
23 morphine. Respondent was found by his roommate, T.P. who administered nasal Narcan to
24 Respondent, began CPR, and called 911.

25 17. At the time of this overdose, Respondent had been employed by St. Joseph's Medical
26 Center (SJMC) in the city of Stockton as a pharmacy technician. In the week proceeding his
27 overdose, Respondent was compounding medication at SJMC using both fentanyl and morphine.
28

1 18. Respondent was then transported by ambulance to Lodi Memorial Hospital (LMH).
2 After being admitted to LMH, Respondent admitted to Emergency Room (ER) nurse J.P., that
3 Respondent had been stealing narcotics from SJMC for personal use. J.P. immediately reported
4 this theft to the Stockton Police Department.

5 19. Later that same day, December 27, 2019, Officer M.H. of the Stockton Police
6 Department interviewed Respondent. During the interview, Respondent admitted he had
7 overdosed on morphine and fentanyl that he had stolen from SJMC. He further stated he had
8 been stealing narcotics from SJMC for approximately two months.

9 20. Three days later, on December 30, 2019, Respondent spoke with S.B., Human
10 Resources Consultant for SJMC. During their conversation, S.B. informed Respondent that she
11 had been informed that Respondent had admitted to stealing and using drugs from SJMC.
12 Respondent confirmed to S.B. that he had made that statement.

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct – Fraud)

15 21. Respondent is subject to disciplinary action under Code section 4301, subdivision (f).
16 The circumstances are that, as set forth above in paragraphs 16-20, Respondent unlawfully
17 procured and possessed controlled substances, including but not limited to morphine, fentanyl and
18 heroin. In doing so, Respondent's actions involved moral turpitude, dishonesty, fraud, deceit, or
19 corruption.

20 **SECOND CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct – Unlawfully Obtaining Controlled Substances)

22 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (f).
23 The circumstances are that, as set forth above in paragraphs 16-20, Respondent fraudulently and
24 unlawfully obtained controlled substances, including but not limited to morphine, fentanyl and
25 heroin. In doing so, Respondent violated Health and Safety Code section 11173, subdivision (a).

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Unlawfully Possessing Controlled Substances)

23. Respondent is subject to disciplinary action under Code section 4301, subdivision (f). The circumstances are that, as set forth above in paragraphs 16-20, Respondent unlawfully possessed controlled substances, including but not limited to morphine, fentanyl and heroin. In doing so, Respondent violated Code section 4060.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Self-Administering Controlled Substances)

24. Respondent is subject to disciplinary action under Code section 4301, subdivision (h). The circumstances are that, as set forth above in paragraphs 16-20, Respondent unlawfully self-administered controlled substances, including but not limited to, morphine, fentanyl and heroin. Respondent admitted to self-administering these controlled substances.

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 Pharmacy Technician Registration Number TCH 121454, issued to Nathan Richard Newman;
- 2. Ordering Nathan Richard Newman 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: <u>8/22/2020</u>	<u><i>Anne Sodergren</i></u>
	ANNE SODERGREN
	Executive Officer
	Board of Pharmacy
	Department of Consumer Affairs
	State of California
	<i>Complainant</i>