

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

In the Matter of the Accusation Against:

LEOLA JEAN GILMORE, Respondent

Pharmacy Technician Registration No. TCH 93670

Agency Case No. 7105

OAH No. 2021100415

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 April 27, 2022.

It is so ORDERED on March 28, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly legible.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **LEOLA JEAN GILMORE**
2080 Alum Rock Ave., #307
14 San Jose, CA 95116

15 **Pharmacy Technician Registration No. TCH**
93670

16 Respondent.
17

Case No. 7105

OAH No. 2021100415

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. 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 Rob Bonta, Attorney General of the State of California, by Carter Ott, Deputy Attorney General.

24 2. Leola Jean Gilmore (Respondent) is representing herself in this proceeding and has
25 chosen not to exercise her right to be represented by counsel.

26 3. On or about February 4, 2010, the Board of Pharmacy (Board) issued Pharmacy
27 Technician Registration Number TCH 93670 to Leola Jean Gilmore (Respondent). The

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1 Pharmacy Technician Registration was in full force and effect at all times relevant to the charges
2 brought herein and will expire on December 31, 2021, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 7105 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 August 26, 2021. Respondent timely filed her Notice of Defense contesting
7 the Accusation. A copy of Accusation No. 7105 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. 7105. 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. 7105, agrees that cause exists for discipline and hereby surrenders her Original Pharmacy
25 Technician Registration No. TCH 93670 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 Original Pharmacy Technician Registration without
28 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 she may not withdraw her 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 Original Pharmacy Technician Registration No. TCH 93670, issued to Respondent Leola Jean Gilmore, is surrendered and accepted by the Board.

1. The surrender of Respondent's Original 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.

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. Respondent may not apply for any license, permit, or registration from the Board for
6 three years from the effective date of this decision. If she ever applies for licensure or petitions
7 for reinstatement in the State of California, the Board shall treat it as a new application for
8 licensure. Respondent must comply with all the laws, regulations and procedures for licensure in
9 effect at the time the application or petition is filed, and all of the charges and allegations
10 contained in Accusation No. 7105 shall be deemed to be true, correct and admitted by Respondent
11 when the Board determines whether to grant or deny the application or petition.

12 5. Respondent shall pay the agency its costs of investigation and enforcement in the
13 amount of \$21,526.25 prior to issuance of a new or reinstated license.

14 6. If Respondent should ever apply or reapply for a new license or certification, or
15 petition for reinstatement of a license, by any other health care licensing agency in the State of
16 California, all of the charges and allegations contained in Accusation, No. 7105 shall be deemed
17 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
18 other proceeding seeking to deny or restrict licensure.

19 **ACCEPTANCE**

20 I have carefully read the Stipulated Surrender of License and Order. I understand the
21 stipulation and the effect it will have on my Original Pharmacy Technician Registration. I enter
22 into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
23 agree to be bound by the Decision and Order of the Board of Pharmacy.

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25 DATED: _____
26 LEOLA JEAN GILMORE
27 Respondent
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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: _____

Respectfully submitted,
ROB BONTA
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General

CARTER OTT
Deputy Attorney General
Attorneys for Complainant

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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: 2/27/22

Respectfully submitted,

ROB BONTA
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General



CARTER OTT
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7105

1 ROB BONTA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 CARTER OTT
Deputy Attorney General
4 State Bar No. 221660
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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:

13 **LEOLA JEAN GILMORE**
14 **2080 Alum Rock Ave., #307**
San Jose, CA 95116

15 **Pharmacy Technician Registration No. TCH**
16 **93670**

17 Respondent.

Case No. 7105

ACCUSATION

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 4, 2010, the Board of Pharmacy issued Pharmacy Technician
23 Registration Number TCH 93670 to Leola Jean Gilmore (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 December 31, 2021, unless renewed.

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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 4300 states, in part:

6 “(a) Every license issued may be suspended or revoked.”

7 5. Section 4300.1 states, in part:

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

13 **STATUTORY PROVISIONS**

14 6. Section 4060 states:

15 “A person shall not possess any controlled substance, except that furnished to a person
16 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
17 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
18 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a
19 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5,
20 or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
21 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics
22 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
23 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock
24 in containers correctly labeled with the name and address of the supplier or producer.

25 “This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
26 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

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1 7. Section 4301 states, in part:

2 “The board shall take action against any holder of a license who is guilty of unprofessional
3 conduct or whose license has been issued by mistake. Unprofessional conduct includes, but is not
4 limited to, any of the following:

5 . . .

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

9 . . .

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

15 . . .

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

18 . . .

19 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
20 violation of or conspiring to violate any provision or term of this chapter or of the applicable
21 federal and state laws and regulations governing pharmacy, including regulations established by
22 the board or by any other state or federal regulatory agency.

23 ”

24 8. California Health and Safety Code section 11350, subdivision (a) states:

25 “(a) Except as otherwise provided in this division, every person who possesses (1) any
26 controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of subdivision (f) of
27 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
28 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section

1 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
2 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
3 licensed to practice in this state, shall be punished by imprisonment in a county jail for not more
4 than one year, except that such person shall instead be punished pursuant to subdivision (h) of
5 Section 1170 of the Penal Code if that person has one or more prior convictions for an offense
6 specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of
7 the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290
8 of the Penal Code.”

9 9. 21 U.S.C. section 844, subdivision (a) states, in part:

10 “(a) Unlawful acts; penalties

11 “It shall be unlawful for any person knowingly or intentionally to possess a controlled
12 substance unless such substance was obtained directly, or pursuant to a valid prescription or
13 order, from a practitioner, while acting in the course of his professional practice, or except as
14 otherwise authorized by this subchapter or subchapter II. . . .”

15 **RELEVANT DRUGS**

16 10. Cannabis (also known as marijuana), a hallucinogenic drug, is a Schedule I controlled
17 substance, pursuant to Health and Safety Code section 11054, subdivision (d)(13) and 21 CFR
18 section 1308.11, subdivision (d)(31).

19 11. Crack cocaine (also known as “crack” and “rock”) is a Schedule I controlled
20 substance, pursuant to Health and Safety Code section 11054, subdivision (f)(1), and a dangerous
21 drug pursuant to Business and Professions Code section 4022; and, pursuant to 21 CFR section
22 1308.12, subdivision (b)(4), a Schedule II drug.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct – Moral Turpitude)

25 12. Respondent subjected her Pharmacy Technician Registration to discipline for
26 unprofessional conduct based on her commission of acts involving moral turpitude. (Bus. & Prof.
27 Code § 4301, subd. (f)). In particular, in or around 2020 and 2021, on online video sharing and
28

1 social media platforms (e.g., YouTube), Respondent presented, posted, and shared videos and
2 video streams in which she:

3 a. Admitted to possessing and using cannabis and crack cocaine; recounted her
4 recent abuse of cannabis and crack cocaine; and otherwise professed to and celebrating a lifestyle
5 of abusing alcohol, cannabis, and crack cocaine.

6 b. Appeared to be smoking cannabis and crack cocaine;

7 c. Recounted that she once picked up her son from his school so inebriated by
8 cannabis that she (Respondent) “couldn’t drive” and “felt like [she] was floating . . . like [she]
9 was levitating.” According to her narrative, later that night, because of the cannabis inebriation,
10 she “was throwing up and barfing the whole night.”

11 d. Shared images and videos of her nude or partially nude body for the purpose of
12 pecuniary gain via donations from viewers and/or monetizing viewership through advertising on
13 her social media page(s).

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct – Dangerous Use of Controlled Substance)

16 13. Respondent subjected her Pharmacy Technician Registration to discipline for
17 unprofessional conduct based on her self-administering of a controlled substance. (Bus. & Prof.
18 Code § 4301, subd. (h)). In particular, in her social media videos and video streams described in
19 paragraph 12, above, Respondent recounted and depicted her use of cannabis and crack cocaine.

20 **THIRD CAUSE FOR DISCIPLINE**

21 (Unprofessional Conduct – Violation of Laws Regulating Controlled Substances)

22 14. Respondent subjected her Pharmacy Technician Registration to discipline for
23 unprofessional conduct based on her violation of statutes of this state or of the United States
24 regulating controlled substances and dangerous drugs. (Bus. & Prof. Code § 4301, subds. (j) and
25 (o)). In particular, in her social media videos and video streams described in paragraphs 12 and
26 13, above, Respondent admitted to possession and use of cannabis and crack cocaine in violation
27 of 21 U.S.C. section 844; Business and Professions Code section 4060; and California Health and
28 Safety Code section 11350, subdivision (a).

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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 93670, issued to Leola Jean Gilmore;
2. Ordering Leola Jean Gilmore 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: 8/19/2021

Signature on File

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

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