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

10 In the Matter of the Petition to Revoke Probation
11 Against:
12 **HEIDI L. MEDEIROS**
13 **4226 Valley Avenue**
Martinez, CA 94553
14 **Pharmacy Technician License No. TCH 25025**
15 Respondent.

Case No. 3837

PETITION TO REVOKE PROBATION

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
19 official capacity as the Executive Officer, Board of Pharmacy, Department of Consumer Affairs.
- 20 2. On or about February 4, 1998, the Board of Pharmacy issued Pharmacy Technician
21 License Number TCH 25025 to Heidi L. Medeiros (Respondent). The License was in effect at all
22 times relevant to the charges brought herein and will expire on April 30, 2011, unless renewed.
- 23 3. In a disciplinary action titled "In the Matter of Accusation Against Docs Pharmacy
24 Inc., Robert Eugene Horwitz, Jamey Phillip Sheets, Heidi L. Medeiros, Margo N. Cantrell," Case
25 No. 2427, the Board of Pharmacy issued a decision, effective March 31, 2002, in which
26 Respondent's Pharmacy Technician License was revoked. However, revocation was stayed, and
27 Respondent's License was placed on probation with terms and conditions for five (5) years. A
28 copy of that decision is attached as exhibit A and is incorporated by reference.

1 JURISDICTION AND STATUTORY PROVISIONS

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

5 5. Section 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, § 11000 et seq.].

8 6. Section 4300(a) of the Code provides that every license issued by the Board may be
9 suspended or revoked.

10 7. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
11 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
12 disciplinary action during the period within which the license may be renewed, restored, reissued
13 or reinstated. Section 4402(e) of the Code provides that any non-pharmacist license issued by the
14 Board may be canceled if not renewed within 60 days after expiration, and any license canceled
15 in this fashion may not be reissued but will instead require a new application to seek reissuance.

16
17 FACTUAL BACKGROUND

18 8. On or about April 16, 2002, pursuant to Term and Condition 5 of the Decision and
19 Order imposing probation on Respondent's License, Respondent appeared in person at the Board
20 offices for an initial probation meeting and interview. During that meeting, all of the terms and
21 conditions were explained to Respondent. She signed a declaration acknowledging that the Board
22 staff had "fully explained" all of the terms to her, agreeing that she "thoroughly underst[ood]" all
23 the terms, and agreeing that any failure to comply could result in further disciplinary action.

24 9. On or about October 11, 2002, following service of Respondent's initial suspension
25 period of 90 days pursuant to Term and Condition 1 of the Decision and Order, Board staff sent a
26 letter to Respondent explaining that pursuant to Term and Condition 2 of the Decision and Order,
27 her License was suspended and that it would remain suspended until such time as she submitted
28 satisfactory proof of certification by the Pharmacy Technician Certification Board (PTCB).

1 10. On or about February 11, 2005, Board staff sent Respondent another letter, reiterating
2 the ongoing suspension of her license pursuant to Term and Condition 2 for failure to submit the
3 required proof of PTCB certification, and further reiterating her obligation to nonetheless comply
4 with other terms and conditions of probation, including her obligation to pay cost recovery (Term
5 and Condition 8), and her obligation to submit quarterly reports (Term and Condition 5).¹ The
6 letter set a deadline for the submission of Respondent's first quarterly report of April 10, 2005.

7 11. On or about January 25, 2006, Respondent sent a letter to the Board stating: that she
8 planned to return to practice under her License on or about February 6, 2006; and that she had not
9 to that point been practicing under her License for the three prior years. Respondent asked that
10 she be permitted to pay cost recovery at a rate of \$100 per month, before the 20th of each month.
11 Along with her letter, Respondent submitted proof of her certification by the PTCB.

12 12. On or about February 10, 2006, Board staff sent Respondent a letter acknowledging
13 receipt of the proof of certification by the PTCB, informing Respondent that the suspension was
14 lifted, and authorizing her to return to work. The letter also enclosed the forms and documents
15 necessary for Respondent to comply with Term and Condition 7 (Notice to Employers).

16 13. On or about March 1, 2006, Board staff sent Respondent another letter, approving her
17 requested payment plan of \$100 per month, and requiring Respondent to begin making payments.

18 14. Respondent was employed as a Pharmacy Technician from in or about February 2006
19 to in or about November 2006. During this time Respondent failed to submit paperwork required
20 by Term and Condition 7 (Notice to Employers). Upon leaving that employment, Respondent did
21 not submit a notification to the Board pursuant to Term and Condition 11.

22 15. Respondent submitted one quarterly report pursuant to Term and Condition 5, on or
23 about April 25, 2006. She has not submitted another quarterly report, since or prior to that date.

24 16. Respondent's last payment toward cost recovery pursuant to Term and Condition 8
25 was received on or about August 3, 2006. The balance outstanding is \$4,145.00.

26 17. Respondent has not practiced under her License since in or about November 2006.

27 ¹ The letter also referenced Term and Condition 12 (Tolling of Probation), which prohibits
28 a period of tolling due to non-practice in excess of three consecutive years.

1 FIRST CAUSE TO REVOKE PROBATION

2 (Failure to Timely Submit Quarterly Report(s))

3 18. At all times after the effective date (March 31, 2002) of the Decision and Order
4 imposing probation on Respondent's License, Term and Condition 5 of that Order required that
5 Respondent report to the Board quarterly, on a schedule as directed by the Board or its designee,
6 either in person or in writing, as directed. No quarterly report was submitted to the Board by
7 Respondent in 2002, 2003, 2004, 2005, 2007, 2008, 2009, or 2010, despite transmission by Board
8 staff of one or more non-compliance letter(s) documenting Respondent's failure to submit. The
9 only quarterly report submitted by Respondent was received on or about April 25, 2006. This
10 failure to timely submit quarterly report(s) subjects Respondent's License to revocation.

11
12 SECOND CAUSE TO REVOKE PROBATION

13 (Failure to Timely Submit Compliant Employer Acknowledgment(s))

14 19. At all times after the effective date (March 31, 2002) of the Decision and Order
15 imposing probation on Respondent's License, Term and Condition 7 of that Order required that
16 Respondent notify her employer(s) of the decision in Case No. 2427, and that within 30 days (or
17 within 15 days of undertaking new employment) she cause such employer(s) to submit a written
18 acknowledgment of the decision in which her direct supervisor, pharmacist-in-charge, and owner
19 each report that they have read the decision in Case No. 2427 and terms and conditions thereof.
20 During her employment in and/or between February and November 2006, Respondent failed to
21 timely submit written acknowledgment(s) from her employer(s). This failure to timely submit
22 written acknowledgment(s) subjects Respondent's License to revocation.

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1 THIRD CAUSE TO REVOKE PROBATION

2 (Failure to Timely Pay Cost Recovery)

3 20. At all times after the effective date (March 31, 2002) of the Decision and Order
4 imposing probation on Respondent's License, Term and Condition 8 of that Order required that
5 Respondent pay to the Board its costs of investigation and prosecution totaling \$4,645.00, making
6 payments as arranged with the Board. Respondent made no payments in 2002, 2003, 2004, or
7 2005. After approval of her request to make payments of \$100.00 per month, Respondent made
8 five monthly payments, with her last payment received on or about August 3, 2006. No payment
9 on the outstanding balance of \$4,145.00 has been received since that time. This failure to make
10 timely payment(s) toward cost recovery subjects Respondent's License to revocation.

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12 FOURTH CAUSE TO REVOKE PROBATION

13 (Failure to Timely Submit Notification(s) of Change in Employment)

14 21. At all times after the effective date (March 31, 2002) of the Decision and Order
15 imposing probation on Respondent's License, Term and Condition 11 of that Order required that
16 Respondent notify the Board within 10 days of any change in employment (or mailing address).
17 At no time has Respondent timely notified the Board within 10 days of a change in employment,
18 including her departure from employment as a Pharmacy Technician in November 2006. This
19 failure to timely notify the Board of such change(s) subjects Respondent's License to revocation.

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21 FIFTH CAUSE TO REVOKE PROBATION

22 (Failure to Maintain Employment as a Pharmacy Technician)

23 22. At all times after the effective date (March 31, 2002) of the Decision and Order
24 imposing probation on Respondent's License, Term and Condition 12 of that Order required that
25 Respondent not have more than three consecutive years of non-practice as a Pharmacy Technician
26 at any time during probation. Respondent was out of practice for more than three years prior to
27 February 2006, and/or for more than three years following November 2006. This/these failure(s)
28 to maintain employment as a Pharmacy Technician subject Respondent's License to revocation.

1 SIXTH CAUSE TO REVOKE PROBATION

2 (Failure to Cooperate with Board Staff)

3 23. At all times after the effective date (March 31, 2002) of the Decision and Order
4 imposing probation on Respondent's License, Term and Condition 6 of that Order required that
5 Respondent cooperate with the Board's inspection program and with the Board's monitoring and
6 investigation of Respondent's compliance with probation.. The failure(s) to cooperate with Board
7 staff, as described in paragraphs 8-22 above, subject Respondent's License to revocation.

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9 OTHER MATTERS – EXTENSION OF PROBATION

10 24. At all times after the effective date (March 31, 2002) of the Decision and Order
11 imposing probation on Respondent's License, Term and Condition 14 of that Order required:

12 **14. Violation of Probation.**

13 If Respondent violates probation in any respect, the Board, after giving Respondent
14 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
15 order that was stayed. If a petition to revoke probation or an accusation is filed against
16 Respondent during probation, the Board shall have continuing jurisdiction, and the period
17 of probation shall be extended, until the petition to revoke probation or accusation is heard
18 and decided.

19 If respondent has not complied with any term or condition of probation, the board
20 shall have continuing jurisdiction over Respondent, and probation shall automatically be
21 extended, until all terms and conditions have been satisfied or the board has taken other
22 action as deemed appropriate to treat the failure to comply as a violation of probation, to
23 terminate probation, and to impose the penalty which was stayed.

24 25. Pursuant to the operation of Term and Condition 14 of the probation order applicable
25 to Respondent's License, probation is automatically extended by the filing hereof, and/or by
26 Respondent's failure to comply with the terms and conditions of probation, until such time as this
27 Petition to Revoke Probation is heard and decided, or until the Board has taken other action as
28 deemed appropriate to treat the failure to comply as a violation of probation.

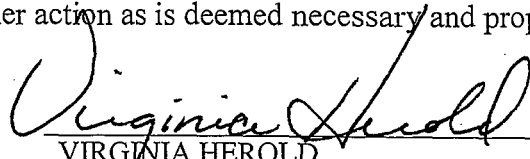
26 PRAYER

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

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1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 2427, and imposing the disciplinary order that was stayed, thereby revoking Pharmacy Technician License No. TCH 25025, issued to Heidi L. Medeiros;
2. Revoking or suspending Pharmacy Technician License No. TCH 25025, issued to Heidi L. Medeiros;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 12/17/10



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

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 2427