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7

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:

Case No. 4252

12 **HOLLY LYNN ALLEN**
7264 Olympic Rd #102
13 Joshua Tree, California 92252

PETITION TO REVOKE PROBATION

14 **Pharmacy Technician License No. TCH 15233**
15 **Respondent.**

16
17 Complainant alleges:

18 **PARTIES**

19 1.e Virginia Herold (“Complainant”) brings this Petition to Revoke Probation solely in
20 her official capacity as Executive Officer of the Board of Pharmacy (“Board”), Department of
21 Consumer Affairs.

22 2.e On or about February 22, 1995, the Board issued Original Pharmacy Technician
23 License Number TCH 15233 to Holly Lynn Allen (“Respondent”). The license was in effect at
24 all times relevant to the charges brought herein and expired on April 30, 2012. The Board has
25 jurisdiction to proceed against the probationary license during the period in which the license is
26 subject to renewal and before the expiration of the probationary period.

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1 **JURISDICTION**

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

5 4. 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 5. Section 4300 of the Code states, in pertinent part:

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

10 ...

11 “(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
12 certificate of licensure for any violation of the terms and conditions of probation. Upon
13 satisfactory completion of probation, the board shall convert the probationary certificate to a
14 regular certificate, free of conditions.

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

20 **DECISION AND ORDER IN CASE NO. 3586**

21 6. In a disciplinary action entitled *In the Matter of the Accusation Against Holly Lynn*
22 *Allen* (Case No. 3586), the Board issued a decision, effective September 15, 2011, revoking
23 Respondent’s Pharmacy Technician License. The Board stayed the revocation and placed
24 Respondent’s license on probation for a period of four (4) years subject to the Terms and
25 Conditions set forth in the Decision and Order. A copy of the decision is attached hereto as
26 Exhibit A and is incorporated herein by reference.

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 (Practicing During a Period of License Suspension)

3 8. At all times after the effective date of the Decision and Order imposing probation on
4 Respondent's License, Term and Condition 1 of that Order required, in pertinent part:

5 **1. Certification Prior to Resuming Work.** Respondent shall be automatically
6 suspended from working as a pharmacy technician until she is certified as defined by
7 Business and Professions Code section 4202 (a)(4), and provides satisfactory proof of
8 certification to the board. Respondent shall not resume working as a pharmacy
9 technician until notified by the board. Failure to achieve certification within one (1)
10 year shall be considered a violation of probation.

11 During suspension, respondent shall not enter any pharmacy area or any portion of any
12 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any
13 other distributor of drugs) any drug manufacturer, or any other location where
14 dangerous drugs or devices or controlled substances are maintained. Respondent shall
15 not do any act involving drug selection, selection of stock, manufacturing,
16 compounding or dispensing; nor shall respondent manage, administer, or assist any
17 licensee of the board. Respondent shall not have access to or control the ordering,
18 manufacturing or dispensing of dangerous drugs and devices or controlled substances.
19 Respondent shall not resume work until notified by the board.

20 9. Respondent's probation is subject to revocation under Code section 4300,
21 subdivision (d), for failure to comply with Term and Condition 1 of the Decision and Order, as
22 more particularly set forth below:

23 a. On or about October 11, 2011, Respondent informed the Board that she would not
24 appear at a scheduled office conference because there were not enough technicians to cover the
25 pharmacy and she was scheduled to work that day.

26 b. On or about April 3, 2012, a Board investigator conducted a routine pharmacy
27 inspection of Avalon Pharmacy, located at 58471 29 Palms Highway, Yucca Valley, CA 92284.
28 Respondent was present in the pharmacy and working as a pharmacy technician.

SECOND CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

10. At all times after the effective date of the Decision and Order imposing probation on
Respondent's License, Term and Condition 2 of that Order required, in pertinent part:

2. Obey All Laws. Respondent shall obey all state and federal laws and regulations.

1 Respondent's License, Term and Condition 6 of that Order required, in pertinent part:

2
3 **6. Notice to Employers.** During the period of probation, respondent shall notify all
4 present and prospective employers of the decision in case number 3586 and the terms,
5 conditions and restrictions imposed on respondent by the decision, as follows:

6 Within 30 days of the effective date of the decision, and within fifteen (15)
7 days of respondent undertaking new employment, respondent shall cause her direct
8 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed
9 during respondent's tenure of employment) and owner to report to the board in writing
10 acknowledging that the listed individual has/have read the decision in case number
11 3586 and the terms and conditions imposed thereby.

12 ...

13 Failure to timely notify present or prospective employer(s) or to cause that/those
14 employer(s) to submit timely acknowledgements to the board shall be considered a
15 violation of probation.

16 15. Respondent's probation is subject to revocation under Code section 4300,
17 subdivision (d), for failure to comply with Term and Condition 6 of the Decision and Order, in
18 that Respondent did not submit to the Board proof that she notified her employer of the decision
19 in *The Matter of the Accusation Against Holly Lynn Allen* (Case No. 3586) and the terms,
20 conditions, and restrictions imposed on her license.

21 **FIFTH CAUSE TO REVOKE PROBATION**

22 (Failure to Notify Board of Change in Address)

23 8. At all times after the effective date of the Decision and Order imposing probation on
24 Respondent's License, Term and Condition 11 of that Order required:

25 **11. Notification of a Change in Name, Residence Address, Mailing Address or
26 Employment...** Respondent shall further notify the board in writing within ten (10)
27 days of a change in name, residence address and mailing address, or phone number.

28 Failure to timely notify the board of any change in employer(s), name(s), address(es),
or phone number(s) shall be considered a violation of probation.

9. Respondent's probation is subject to revocation under Code section 4300, subdivision
(d), for failure to comply with Term and Condition 11 of the Decision and Order, in that
Respondent did not notify the Board of a change in her residential mailing address.

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1 **EIGHTH CAUSE TO REVOKE PROBATION**

2 (Failure to Establish a Work Site Monitor)

3 14. At all times after the effective date of the Decision and Order imposing probation on
4 Respondent's License, Term and Condition 18 of that Order required, in pertinent part:

5 **18. Work Site Monitor.** Within ten (10) days of the effective date of this decision,
6 respondent shall identify a work site monitor, for prior approval by the board, who
7 shall be responsible for supervising respondent during working hours.

7 ...

8 Failure to identify an acceptable initial or replacement work site monitor, or to ensure
9 quarterly reports are submitted to the board, shall be considered a violation of
10 probation.

10 15. Respondent's probation is subject to revocation under Code section 4300, subdivision
11 (d), for failure to comply with Term and Condition 18 of the Decision and Order, in that
12 Respondent did not identify a work site monitor who would be responsible for supervising
13 Respondent during working hours.

14 **NINTH CAUSE TO REVOKE PROBATION**

15 (Failure to Establish a Prescription Coordinator/Monitor)

16 19. At all times after the effective date of the Decision and Order imposing probation on
17 Respondent's License, Term and Condition 21 of that Order required in pertinent part:

18 **21. Prescription Coordination and Monitoring of Prescription Use.** Within
19 thirty (30) days of the effective date of this decision, respondent shall submit to the
20 board, for its prior approval, the name and qualifications of a single physician, nurse
21 practitioner, physician assistant, or psychiatrist of your choice, who shall be aware of
22 the respondent's history with the use of controlled substances and/or dangerous drugs
23 and who will coordinate and monitor any prescriptions for respondent for dangerous
24 drugs, controlled substances or mood-altering drugs.

22 ...

23 Failure to timely submit the selected practitioner or replacement practitioner to the
24 board for approval, or to ensure the required reporting thereby on the quarterly
25 reports, shall be considered a violation of probation.

25 21. Respondent's probation is subject to revocation under Code section 4300, subdivision
26 (d), for failure to comply with Term and Condition 21 of the Decision and Order, in that
27 Respondent did not submit to the Board the name and qualifications of a practitioner who would
28 act as Respondent's prescription coordinator and monitor.

1 TENTH CAUSE TO REVOKE PROBATION

2 (Failure to Establish a Community Service Program)

3 22. At all times after the effective date of the Decision and Order imposing probation on
4 Respondent's License, Term and Condition 25 of that Order required:

5 **25. Community Services Program.** Within sixty (60) days of the effective date of
6 this decision, respondent shall submit to the board, for its prior approval, a
7 community service program in which respondent shall provide free health-care
8 related services on a regular basis to a community or charitable facility or agency for
9 at least 24 hours per year for the first three years of probation. Within thirty (30) days
10 of board approval thereof, respondent shall submit documentation to the board
11 demonstrating commencement of the community service program. A record of this
12 notification must be provided to the board upon request. Respondent shall report on
13 progress with the community service program in the quarterly reports. Failure to
14 timely submit, commence, or comply with the program shall be considered a violation
15 of probation.

16 23. Respondent's probation is subject to revocation under Code section 4300, subdivision
17 (d), for failure to comply with Term and Condition 25 of the Decision and Order, in that
18 Respondent did not submit to the Board the name of a community service program where
19 Respondent would provide free health-care related services on a regular basis.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board issue a decision:

- 23 1. Revoking the probation that was granted by the Board in Case No. 3586 and
24 imposing the disciplinary Order that was stayed, thereby revoking Pharmacy Technician License
25 No. TCH 15233 issued to Respondent Holly Lynn Allen;
26 2. Revoking or suspending Pharmacy Technician License No. TCH 15233, issued to
27 Respondent Holly Lynn Allen; and
28 3. Taking such other and further action as is deemed necessary and proper.

DATED: _____

6/14/12

Virginia Herold

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

Exhibit A

Decision and Order in Board of Pharmacy Case No. 3586

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

In the Matter of the Accusation Against:

Case No. 3586

HOLLY LYNN ALLEN
7264 Olympic Rd., #102
Joshua Tree, CA 92252

Pharmacy Technician Registration No. TCH
15233

Respondent.

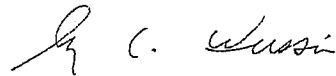
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 on September 15, 2011.

It is so ORDERED August 16, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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2 MARC D. GREENBAUM
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3586

11 **HOLLY LYNN ALLEN**
12 **7264 Olympic Rd. #102**
13 **Joshua Tree, CA 92252**
Pharmacy Technician License No. TCH
14 **15233**

OAH No. L-2010110847

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Gillian E. Friedman, Deputy Attorney
23 General.

24 2. Respondent Holly Lynn Allen 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 22, 1995, the Board of Pharmacy issued Pharmacy Technician
27 License No. TCH 15233 to Holly Lynn Allen (Respondent). The Pharmacy Technician License
28

1 was in full force and effect at all times relevant to the charges brought in Accusation No. 3586
2 and will expire on April 30, 2012, unless renewed.

3 JURISDICTION

4 4. Accusation No. 3586 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on August 30, 2010.
7 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
8 No. 3586 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 3586. Respondent has also carefully read, and understands the effects of this
12 Stipulated Settlement and Disciplinary 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. 3586.

25 9. Respondent agrees that her Pharmacy Technician License is subject to discipline and
26 she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
27 below.

28 ///

CONTINGENCY

1
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 settlement, without notice to or participation by
5 Respondent. By signing the stipulation, Respondent understands and agrees that she may not
6 withdraw her 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 Settlement 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 facsimile copies of this Stipulated Settlement
12 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
13 effect as the originals.

14 12. This Stipulated Settlement and Disciplinary 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 Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing 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
22 Disciplinary Order:

DISCIPLINARY ORDER

23
24 IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 15233 issued to
25 Respondent Holly Lynn Allen is revoked. However, the revocation is stayed and Respondent is
26 placed on probation for four (4) years on the following terms and conditions.

27 1. **Certification Prior to Resuming Work**

28 Respondent shall be automatically suspended from working as a pharmacy technician until

1 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides
2 satisfactory proof of certification to the board. Respondent shall not resume working as a
3 pharmacy technician until notified by the board. Failure to achieve certification within one (1)
4 year shall be considered a violation of probation. Respondent shall not resume working as a
5 pharmacy technician until notified by the board.

6 During suspension, respondent shall not enter any pharmacy area or any portion of any
7 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
8 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
9 devices or controlled substances are maintained. Respondent shall not do any act involving drug
10 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
11 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
12 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
13 substances. Respondent shall not resume work until notified by the board.

14 Subject to the above restrictions, respondent may continue to own or hold an interest in any
15 licensed premises by the board in which she holds an interest at the time this decision becomes
16 effective unless otherwise specified in this order.

17 Failure to comply with this suspension shall be considered a violation of probation.

18 **2. Obey All Laws**

19 Respondent shall obey all state and federal laws and regulations.

20 Respondent shall report any of the following occurrences to the board, in writing, within
21 seventy-two (72) hours of such occurrence:

- 22 an arrest or issuance of a criminal complaint for violation of any provision of the
23 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
24 substances laws
- 25 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
26 criminal complaint, information or indictment
- 27 a conviction of any crime
- 28 discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's pharmacy technician license or which is related to the
2 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
3 or charging for any drug, device or controlled substance.

4 Failure to timely report any such occurrence shall be considered a violation of probation.

5 **3. Report to the Board**

6 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
7 designee. The report shall be made either in person or in writing, as directed. Among other
8 requirements, respondent shall state in each report under penalty of perjury whether there has
9 been compliance with all the terms and conditions of probation. Failure to submit timely reports
10 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
11 in submission of reports as directed may be added to the total period of probation. Moreover, if
12 the final probation report is not made as directed, probation shall be automatically extended until
13 such time as the final report is made and accepted by the board.

14 **4. Interview with the Board**

15 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
16 with the board or its designee, at such intervals and locations as are determined by the board or its
17 designee. Failure to appear for any scheduled interview without prior notification to board staff,
18 or failure to appear at two (2) or more scheduled interviews with the board or its designee during
19 the period of probation, shall be considered a violation of probation.

20 **5. Cooperate with Board Staff**

21 Respondent shall cooperate with the board's inspection program and with the board's
22 monitoring and investigation of respondent's compliance with the terms and conditions of her
23 probation. Failure to cooperate shall be considered a violation of probation.

24 **6. Notice to Employers**

25 During the period of probation, respondent shall notify all present and prospective
26 employers of the decision in case number 3586 and the terms, conditions and restrictions imposed
27 on respondent by the decision, as follows:

28 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of

1 respondent undertaking any new employment, respondent shall cause her direct supervisor,
2 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
3 tenure of employment) and owner to report to the board in writing acknowledging that the listed
4 individual(s) has/have read the decision in case number 3586 and the terms and conditions
5 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
6 supervisor(s) submit timely acknowledgement(s) to the board.

7 If respondent works for or is employed by or through a pharmacy employment service,
8 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
9 of the terms and conditions of the decision in case number 3586 in advance of the respondent
10 commencing work at each pharmacy. A record of this notification must be provided to the board
11 upon request.

12 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
13 (15) days of respondent undertaking any new employment by or through a pharmacy employment
14 service, respondent shall cause her direct supervisor with the pharmacy employment service to
15 report to the board in writing acknowledging that she has read the decision in case number 3586
16 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
17 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those
19 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
20 probation.

21 "Employment" within the meaning of this provision shall include any full-time,
22 part-time, temporary or relief service or pharmacy management service as a pharmacy
23 technician or in any position for which a pharmacy technician license is a requirement
24 or criterion for employment, whether the respondent is considered an employee,
25 independent contractor or volunteer.

26 **7. Reimbursement of Board Costs**

27 As a condition precedent to successful completion of probation, respondent shall pay to the
28 board its costs of investigation and prosecution in the amount of \$3,800.00. Respondent may

1 make payments under a written payment schedule as approved by the Board. Once approved,
2 there shall be no deviation from this schedule absent prior written approval by the board or its
3 designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
4 probation.

5 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
6 reimburse the board its costs of investigation and prosecution.

7 **8. Probation Monitoring Costs**

8 Respondent shall pay any costs associated with probation monitoring as determined by the
9 board each and every year of probation. Such costs shall be payable to the board on a schedule as
10 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
11 be considered a violation of probation.

12 **9. Status of License**

13 Respondent shall, at all times while on probation, maintain an active, current pharmacy
14 technician license with the board, including any period during which suspension or probation is
15 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

16 If respondent's pharmacy technician license expires or is cancelled by operation of law or
17 otherwise at any time during the period of probation, including any extensions thereof due to
18 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all
19 terms and conditions of this probation not previously satisfied.

20 **10. License Surrender While on Probation/Suspension**

21 Following the effective date of this decision, should respondent cease work due to
22 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
23 respondent may tender her pharmacy technician license to the board for surrender. The board or
24 its designee shall have the discretion whether to grant the request for surrender or take any other
25 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
26 license, respondent will no longer be subject to the terms and conditions of probation. This
27 surrender constitutes a record of discipline and shall become a part of the respondent's license
28 history with the board.

1 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
2 license to the board within ten (10) days of notification by the board that the surrender is
3 accepted. Respondent may not reapply for any license, permit, or registration from the board for
4 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
5 applicable to the license sought as of the date the application for that license is submitted to the
6 board.

7 **11. Notification of a Change in Name, Residence Address, Mailing Address or**
8 **Employment**

9 Respondent shall notify the board in writing within ten (10) days of any change of
10 employment. Said notification shall include the reasons for leaving, the address of the new
11 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
12 shall further notify the board in writing within ten (10) days of a change in name, residence
13 address and mailing address, or phone number.

14 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
15 phone number(s) shall be considered a violation of probation.

16 **12. Tolling of Probation**

17 Except during periods of suspension, respondent shall, at all times while on probation, be
18 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
19 Any month during which this minimum is not met shall toll the period of probation, i.e., the
20 period of probation shall be extended by one month for each month during which this minimum is
21 not met. During any such period of tolling of probation, respondent must nonetheless comply
22 with all terms and conditions of probation.

23 Should respondent, regardless of residency, for any reason (including vacation) cease
24 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
25 respondent must notify the board in writing within ten (10) days of cessation of work and must
26 further notify the board in writing within ten (10) days of the resumption of the work. Any
27 failure to provide such notification(s) shall be considered a violation of probation.

28 It is a violation of probation for respondent's probation to remain tolled pursuant to the

1 provisions of this condition for a total period, counting consecutive and non-consecutive months,
2 exceeding thirty-six (36) months.

3 "Cessation of work" means calendar month during which respondent is not
4 working for at least 40 hours as a pharmacy technician, as defined in Business and
5 Professions Code section 4115. "Resumption of work" means any calendar month
6 during which respondent is working as a pharmacy technician for at least 40 hours as
7 a pharmacy technician as defined by Business and Professions Code section 4115.

8 **13. Violation of Probation**

9 If a respondent has not complied with any term or condition of probation, the board shall
10 have continuing jurisdiction over respondent, and probation shall automatically be extended, until
11 all terms and conditions have been satisfied or the board has taken other action as deemed
12 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
13 to impose the penalty that was stayed.

14 If respondent violates probation in any respect, the board, after giving respondent notice
15 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
16 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
17 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
18 a petition to revoke probation or an accusation is filed against respondent during probation, the
19 board shall have continuing jurisdiction, and the period of probation shall be automatically
20 extended until the petition to revoke probation or accusation is heard and decided.

21 **14. Completion of Probation**

22 Upon written notice by the board indicating successful completion of probation,
23 respondent's pharmacy technician license will be fully restored.

24 **15. No Ownership of Licensed Premises**

25 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
26 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
27 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
28 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)

1 days following the effective date of this decision and shall immediately thereafter provide written
2 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
3 documentation thereof shall be considered a violation of probation.

4 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

5 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
6 attendance at a recognized and established substance abuse recovery support group in California,
7 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
8 or its designee. Respondent must attend at least one group meeting per week unless otherwise
9 directed by the board or its designee. Respondent shall continue regular attendance and submit
10 signed and dated documentation confirming attendance with each quarterly report for the duration
11 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
12 probation.

13 **17. Random Drug Screening**

14 Respondent, at her own expense, shall participate in random testing, including but not
15 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
16 screening program as directed by the board or its designee. Respondent may be required to
17 participate in testing for the entire probation period and the frequency of testing will be
18 determined by the board or its designee. At all times respondent shall fully cooperate with the
19 board or its designee, and shall, when directed, submit to such tests and samples for the detection
20 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
21 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
22 of probation. Upon request of the board or its designee, respondent shall provide documentation
23 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
24 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
25 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
26 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
27 shall be considered a violation of probation and shall result in the automatic suspension of work
28 by respondent. Respondent may not resume work as a pharmacy technician until notified by the

1 board in writing.

2 During suspension, respondent shall not enter any pharmacy area or any portion of or any
3 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
4 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
5 devices or controlled substances are maintained. Respondent shall not do any act involving drug
6 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
7 manage, administer, or assist any licensee of the board. Respondent shall not have access to or
8 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
9 substances. Respondent shall not resume work until notified by the board.

10 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
11 Subject to the above restrictions, respondent may continue to own or hold an interest in any
12 licensed premises in which she holds an interest at the time this decision becomes effective unless
13 otherwise specified in this order.

14 Failure to comply with this suspension shall be considered a violation of probation.

15 **18. Work Site Monitor**

16 Within ten (10) days of the effective date of this decision, respondent shall identify a work
17 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
18 during working hours. Respondent shall be responsible for ensuring that the work site monitor
19 reports in writing to the board quarterly. Should the designated work site monitor determine at
20 any time during the probationary period that respondent has not maintained sobriety, she shall
21 notify the board immediately, either orally or in writing as directed. Should respondent change
22 employment, a new work site monitor must be designated, for prior approval by the board, within
23 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
24 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
25 considered a violation of probation.

26 **19. Notification of Departure**

27 Prior to leaving the probationary geographic area designated by the board or its designee for
28 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in

1 writing of the dates of departure and return. Failure to comply with this provision shall be
2 considered a violation of probation.

3 **20. Abstain from Drugs and Alcohol Use**

4 Respondent shall completely abstain from the possession or use of alcohol, controlled
5 substances, dangerous drugs and their associated paraphernalia except when the drugs are
6 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
7 request of the board or its designee, respondent shall provide documentation from the licensed
8 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
9 treatment of the respondent. Failure to timely provide such documentation shall be considered a
10 violation of probation. Respondent shall ensure that she is not in the same physical location as
11 individuals who are using illicit substances even if respondent is not personally ingesting the
12 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
13 not supported by the documentation timely provided, and/or any physical proximity to persons
14 using illicit substances, shall be considered a violation of probation.

15 **21. Prescription Coordination and Monitoring of Prescription Use**

16 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
17 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
18 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
19 history with the use of controlled substances and/or dangerous drugs and who will coordinate and
20 monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-
21 altering drugs. The approved practitioner shall be provided with a copy of the board's accusation
22 and decision. A record of this notification must be provided to the board upon request.

23 Respondent shall sign a release authorizing the practitioner to communicate with the board about
24 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or
25 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding
26 respondent's compliance with this condition. If any substances considered addictive have been
27 prescribed, the report shall identify a program for the time limited use of any such substances.

28 The board may require that the single coordinating physician, nurse practitioner, physician

1 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
2 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,
3 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,
4 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
5 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit
6 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
7 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

8 If at any time an approved practitioner determines that respondent is unable to practice
9 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
10 telephone and follow up by written letter within three (3) working days. Upon notification from
11 the board or its designee of this determination, respondent shall be automatically suspended and
12 shall not resume practice until notified by the board that practice may be resumed.

13 During suspension, respondent shall not enter any pharmacy area or any portion of the
14 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
15 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
16 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
17 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
18 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
19 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
20 and controlled substances. Respondent shall not resume practice until notified by the board.

21 During suspension, respondent shall not engage in any activity that requires the
22 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
23 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
24 designated representative for any entity licensed by the board.

25 Subject to the above restrictions, respondent may continue to own or hold an interest in any
26 licensed premises in which he or she holds an interest at the time this decision becomes effective
27 unless otherwise specified in this order.

28 Failure to comply with this suspension shall be considered a violation of probation.

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25. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least 25 hours per year for the first three years of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. A record of this notification must be provided to the board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

6/15/11

Holly Lynn Allen
HOLLYLYNN ALLEN
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: June 15, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General



GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3586

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2 MARC D. GREENBAUM
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Telephone: (213) 897-2564
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3586

13 **HOLLY LYNN ALLEN**
7264 Olympic Rd. #102
14 Joshua Tree, CA 92252

A C C U S A T I O N

15 Pharmacy Technician License No. TCH 15233

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

22 2. On or about February 22, 1995, the Board issued Pharmacy Technician License No.
23 TCH 15233 to Holly Lynn Allen (Respondent). The Pharmacy Technician License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on
25 April 30, 2012, unless renewed.

26 **JURISDICTION**

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

STATUTORY PROVISIONS

1
2 4. Section 118, subdivision (b), provides that the suspension, expiration, surrender or
3 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary
4 action during the period within which the license may be renewed, restored, reissued or
5 reinstated.

6 5. Section 4060 states:

7 "No person shall possess any controlled substance, except that furnished to a person upon
8 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
9 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
10 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
11 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
12 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
13 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
14 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
15 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
16 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
17 labeled with the name and address of the supplier or producer.

18 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
19 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
20 devices."

21 6. Section 4300 subdivision (a), states that "[e]very license issued may be suspended or
22 revoked."

23 7. Section 4301 states, in pertinent part:

24 "The board shall take action against any holder of a license who is guilty of unprofessional
25 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
26 Unprofessional conduct shall include, but is not limited to, any of the following:

27

28 ///

1 set forth above in paragraph 13, inclusive, as though set forth fully.

2 PRAYER

3 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
4 and that following the hearing, the Board issue a decision:

5 1. Revoking or suspending Pharmacy Technician License No. TCH 15233, issued to
6 Respondent;

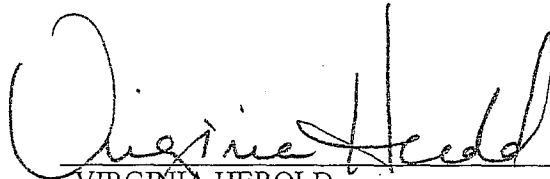
7 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
8 enforcement of this case, pursuant to section 125.3; and

9 3. Taking such other and further action as deemed necessary and proper.

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DATED:

8/13/10



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

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