

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 KATHERINE MESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the Petition to Revoke
Probation Against,

Case No. 5013

12 **KARINA SERRANO**

PETITION TO REVOKE PROBATION

13 307 Rodriguez Avenue
14 Shafter, CA 93263

15 Pharmacy Technician Registration No. TCH
16 107961

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold ("Complainant") brings this Petition to Revoke Probation solely in her
22 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
23 Affairs ("Board").

24 2. On or about February 7, 2013, the Board of Pharmacy issued Pharmacy Technician
25 Registration Number TCH 107961 to Karina Serrano ("Respondent"). The Pharmacy Technician
26 Registration will expire on June 30, 2014, unless renewed. Said Pharmacy Technician Registration
27 was suspended on February 8, 2013.

28 ///

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

11 9. Respondent's probation is subject to revocation because she failed to comply with
12 Probation Condition 15, referenced above. The facts and circumstances regarding this violation
13 are that Respondent failed to submit a recognized and established substance abuse recovery relapse
14 and prevention support group for Board approval and subsequent weekly meetings.

15 **THIRD CAUSE TO REVOKE PROBATION**

16 **(Random Drug Screening)**

17 10. At all times after the effective date of Respondent's probation, Condition 16 stated:

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

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

 Respondent shall not direct, control or perform any aspect of the practice
of pharmacy. Subject to the above restrictions, respondent may continue to own or

1 hold an interest in any licensed premises in which she holds an interest at the time this
2 decision becomes effective unless otherwise specified in this order.

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

5 11. Respondent's probation is subject to revocation because she failed to comply with
6 Probation Condition 16, referenced above. The facts and circumstances regarding this violation
7 are that Respondent was required to enroll in the Board's random drug screening program no later
8 than February 25, 2013. Respondent failed to enroll in the Board's random drug screening
9 program as required.

10 **PRAYER**

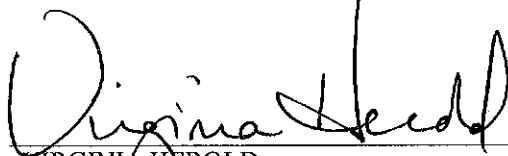
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 4157
14 and imposing the disciplinary order that was stayed thereby revoking Pharmacy Technician
15 Registration No. TCH 107961 issued to Karina Serrano;

16 2. Revoking or suspending Pharmacy Technician Registration No. TCH 107961, issued
17 to Karina Serrano;

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

19 DATED: 2/3/14

20 

21 VIRGINIA HEROLD
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

27 LA2013510830
28 51428840.doc

Exhibit A

Decision and Order

Board of Pharmacy Case No. 4157

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

In the Matter of the Statement of Issues
Against:

Case No. 4157

OAH No. 2012060904

KARINA SERRANO

Pharmacy Technician Registration Applicant

Respondent.

DECISION AND ORDER

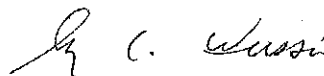
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 7, 2013.

It is so ORDERED on January 8, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KATHERINE MESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Statement of Issues
11 Against:

12 **KARINA SERRANO**

13 307 Rodriguez Avenue
14 Shaffer, CA 93263

15 Pharmacy Technician License

16 Respondent.

Case No. 4157

OAH No. 2012060904

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
20 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
21 be submitted to the Board for approval and adoption as the final disposition of the Statement of
22 Issues.

23 **PARTIES**

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
25 She brought this action solely in her official capacity and is represented in this matter by Kamala
26 D. Harris, Attorney General of the State of California, by Katherine Messana, Deputy Attorney
27 General.
28

1 2. Respondent Karina Serrano (Respondent) is representing herself in this proceeding
2 and has chosen not to exercise her right to be represented by counsel.

3 3. On or about September 14, 2010, Respondent filed an application dated September 7,
4 2010, with the Board of Pharmacy to obtain a Pharmacy Technician License.

5 **JURISDICTION**

6 4. Statement of Issues No. 4157 was filed before the Board of Pharmacy (Board) ,
7 Department of Consumer Affairs, and is currently pending against Respondent. The Statement of
8 Issues and all other statutorily required documents were properly served on Respondent on June
9 6, 2012.

10 5. A copy of Statement of Issues No. 4157 is attached as exhibit A and incorporated
11 herein by reference.

12 **ADVISEMENT AND WAIVERS**

13 6. Respondent has carefully read, and understands the charges and allegations in
14 Statement of Issues No. 4157. Respondent has also carefully read, and understands the effects of
15 this Stipulated Settlement and Disciplinary Order.

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

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 9. Respondent admits the truth of each and every charge and allegation in Statement of
27 Issues No. 4157.
28

1 10. Respondent agrees that her application for pharmacy technician registration is subject
2 to denial and she agrees to be bound by the Board's probationary terms as set forth in the
3 Disciplinary Order below.

4 CONTINGENCY

5 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
6 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
7 communicate directly with the Board regarding this stipulation and settlement, without notice to
8 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
9 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
10 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
11 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
12 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
13 not be disqualified from further action by having considered this matter.

14 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
15 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
16 effect as the originals.

17 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
18 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
19 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
20 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
21 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
22 writing executed by an authorized representative of each of the parties.

23 14. In consideration of the foregoing admissions and stipulations, the parties agree that
24 the Board may, without further notice or formal proceeding, issue and enter the following
25 Disciplinary Order:

26 ///
27 ///
28 ///

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that upon satisfaction of all statutory and regulatory
3 requirements for issuance of a license, a license shall be issued to Karina Serrano (Respondent)
4 and immediately revoked; the order of revocation is stayed and respondent is placed on probation
5 for 5 (five) years upon the following terms and conditions:

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

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

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

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

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

25 **2. Obey All Laws.**

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

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

- 1 an arrest or issuance of a criminal complaint for violation of any provision of the
- 2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 3 substances laws
- 4 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 5 criminal complaint, information or indictment
- 6 a conviction of any crime
- 7 discipline, citation, or other administrative action filed by any state or federal agency
- 8 which involves respondent's pharmacy technician license or which is related to the
- 9 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
- 10 or charging for any drug, device or controlled substance:

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

12 **3. Report to the Board**

13 Respondent shall report to the board quarterly, on a schedule as directed by the board or its

14 designee. The report shall be made either in person or in writing, as directed. Among other

15 requirements, respondent shall state in each report under penalty of perjury whether there has

16 been compliance with all the terms and conditions of probation. Failure to submit timely reports

17 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency

18 in submission of reports as directed may be added to the total period of probation. Moreover, if

19 the final probation report is not made as directed, probation shall be automatically extended until

20 such time as the final report is made and accepted by the board.

21 **4. Interview with the Board**

22 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews

23 with the board or its designee, at such intervals and locations as are determined by the board or its

24 designee. Failure to appear for any scheduled interview without prior notification to board staff,

25 or failure to appear at two (2) or more scheduled interviews with the board or its designee during

26 the period of probation, shall be considered a violation of probation.

27 **5. Cooperate with Board Staff**

28 Respondent shall cooperate with the board's inspection program and with the board's

1 monitoring and investigation of respondent's compliance with the terms and conditions of her
2 probation. Failure to cooperate shall be considered a violation of probation.

3 **6. Notice to Employers**

4 During the period of probation; respondent shall notify all present and prospective
5 employers of the decision in case number 4157 and the terms, conditions and restrictions imposed
6 on respondent by the decision, as follows:

7 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
8 respondent undertaking any new employment, respondent shall cause her direct supervisor,
9 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
10 tenure of employment) and owner to report to the board in writing acknowledging that the listed
11 individual(s) has/have read the decision in case number 4157 and the terms and conditions
12 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
13 supervisor(s) submit timely acknowledgement(s) to the board.

14 If respondent works for or is employed by or through a pharmacy employment service,
15 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
16 of the terms and conditions of the decision in case number 4157 in advance of the respondent
17 commencing work at each pharmacy. A record of this notification must be provided to the board
18 upon request.

19 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
20 (15) days of respondent undertaking any new employment by or through a pharmacy employment
21 service, respondent shall cause her direct supervisor with the pharmacy employment service to
22 report to the board in writing acknowledging that she has read the decision in case number 4157
23 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
24 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

28 "Employment" within the meaning of this provision shall include any full-time,

1 part-time, temporary or relief service or pharmacy management service as a pharmacy
2 technician or in any position for which a pharmacy technician license is a requirement
3 or criterion for employment, whether the respondent is considered an employee,
4 independent contractor or volunteer.

5 **7. Probation Monitoring Costs**

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

10 **8. Status of License**

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

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

18 **9. License Surrender While on Probation/Suspension**

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

27 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
28 license to the board within ten (10) days of notification by the board that the surrender is

1 accepted. Respondent may not reapply for any license, permit, or registration from the board for
2 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
3 applicable to the license sought as of the date the application for that license is submitted to the
4 board.

5 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
6 **Employment**

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

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

14 **11. Tolling of Probation**

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

21 Should respondent, regardless of residency, for any reason (including vacation) cease
22 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
23 respondent must notify the board in writing within ten (10) days of cessation of work and must
24 further notify the board in writing within ten (10) days of the resumption of the work. Any failure
25 to provide such notification(s) shall be considered a violation of probation.
26
27
28

1 It is a violation of probation for respondent's probation to remain tolled pursuant to the
2 provisions of this condition for a total period, counting consecutive and non-consecutive months,
3 exceeding thirty-six (36) months.

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

9 12. Violation of Probation

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

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

22 13. Completion of Probation

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

25 14. No Ownership of Licensed Premises

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

1 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
2 days following the effective date of this decision and shall immediately thereafter provide written
3 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
4 documentation thereof shall be considered a violation of probation.

5 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

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

14 **16. Random Drug Screening**

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

1 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
2 board in writing.

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

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

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

16 **17. Notification of Departure**

17 Prior to leaving the probationary geographic area designated by the board or its designee for
18 a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in
19 writing of the dates of departure and return. Failure to comply with this provision shall be
20 considered a violation of probation.

21 **18. Abstain from Drugs and Alcohol Use**

22 Respondent shall completely abstain from the possession or use of alcohol, controlled
23 substances, dangerous drugs and their associated paraphernalia except when the drugs are
24 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
25 request of the board or its designee, respondent shall provide documentation from the licensed
26 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
27 treatment of the respondent. Failure to timely provide such documentation shall be considered a
28 violation of probation. Respondent shall ensure that she is not in the same physical location as

1 individuals who are using illicit substances even if respondent is not personally ingesting the
2 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
3 not supported by the documentation timely provided, and/or any physical proximity to persons
4 using illicit substances, shall be considered a violation of probation.

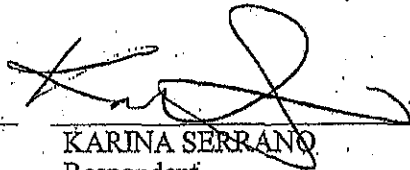
5 ///
6 ///
7 ///
8 ///
9 ///
10 ///
11 ///
12 ///
13 ///
14 ///
15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

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 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: 12-13-12



KARINA SERRANO
Respondent

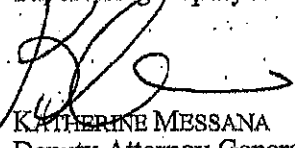
ENDORSEMENT

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: 12/13/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GLORIA A. BARRIOS
Supervising Deputy Attorney General



KATHERINE MESSANA
Deputy Attorney General
Attorneys for Complainant

LA2011601369
51205046.doc

Exhibit A

Statement of Issues No. 4157

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 KATHERINE MESSANA
Deputy Attorney General
4 State Bar No. 272953
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2554
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:

Case No. 4157

12 **KARINA SERRANO**
307 Rodriguez Avenue
13 Shaffer, CA 93263

STATEMENT OF ISSUES

14 Pharmacy Technician Applicant

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold ("Complainant") brings this Statement of Issues solely in her official
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs
20 ("Board").

21 2. On or about September 14, 2010, the Board received an application for a Pharmacy
22 Technician License from Karina Serrano ("Respondent"). On or about September 7, 2010,
23 Karina Serrano certified under penalty of perjury to the truthfulness of all statements, answers,
24 and representations in the application. The Board denied the application on June 21, 2011.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code ("Code") unless
28 otherwise indicated.

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

4. Section 480 of the Code states, in pertinent part:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

(3)

(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.”

5. Section 4300, subdivision (c) of the Code states, in pertinent part”

“The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure.”

6. 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 procured by fraud or misrepresentation or 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.

...

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

...

1 (1) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee... The board may inquire into the circumstances
3 surrounding the commission of the crime, in order to fix the degree of discipline or, in
4 the case of a conviction not involving controlled substances or dangerous drugs, to
5 determine if the conviction is of an offense substantially related to the qualifications,
6 functions, and duties of a licensee under this chapter.”

7 7. Section 490 of the Code states:

8 “(a) In addition to any other action that a board is permitted to take
9 against a licensee, a board may suspend or revoke a license on the ground that the
10 licensee has been convicted of a crime, if the crime is substantially related to the
11 qualifications, functions, or duties of the business or profession for which the license
12 was issued.

13 (b) Notwithstanding any other provision of law, a board may exercise any
14 authority to discipline a licensee for conviction of a crime that is independent of the
15 authority granted under subdivision (a) only if the crime is substantially related to the
16 qualifications, functions, or duties of the business or profession for which the
17 licensee's license was issued.

18 (c) A conviction within the meaning of this section means a plea or
19 verdict of guilty or a conviction following a plea of nolo contendere. An action that a
20 board is permitted to take following the establishment of a conviction may be taken
21 when the time for appeal has elapsed, or the judgment of conviction has been
22 affirmed on appeal, or when an order granting probation is made suspending the
23 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the
24 Penal Code.

25 (d) The Legislature hereby finds and declares that the application of this
26 section has been made unclear by the holding in *Petropoulos v. Department of Real*
27 *Estate* (2006) 142 Cal.App.4th 554, and that the holding in that case has placed a
28 significant number of statutes and regulations in question, resulting in potential harm
to the consumers of California from licensees who have been convicted of crimes.
Therefore, the Legislature finds and declares that this section establishes an
independent basis for a board to impose discipline upon a licensee, and that the
amendments to this section made by Chapter 33 of the Statutes of 2008 do not
constitute a change to, but rather are declaratory of, existing law.”

REGULATORY PROVISIONS

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

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

///

///

///

1 **FIRST CAUSE FOR DENIAL OF APPLICATION**

2 **(Conviction of Substantially Related Crimes)**

3 9. Respondent's application is subject to denial under section 480, subdivision (a)(1) of
4 the Code and section 4300, subdivision (c) of the Code as defined in section 4301, subdivision (l)
5 of the Code, in conjunction with California Code of Regulations, title 16, section 1770 in that
6 Respondent was convicted of crimes substantially related to the qualifications, functions or duties
7 of a registered pharmacy technician, as follows:

8 10. On or about April 25, 2011, after pleading nolo contendere, Respondent was
9 convicted of one misdemeanor count of violating Vehicle Code section 25152(a) [drive while
10 under the influence of alcohol/drugs] in the criminal proceeding entitled *The People of the State*
11 *of California v. Karina Serrano* (Super. Ct. Kern County, 2011, No. BM785903A). The Court
12 sentenced Respondent to two (2) days in jail, placed her on three (3) years probation with terms
13 and conditions, and ordered her to complete TAASK 3-month DUI School and Victim Impact
14 Panel. The circumstances underlying the conviction are that on or about April 1, 2011,
15 Respondent drove a vehicle while under the influence of a tested 0.173% blood alcohol level and
16 with an expired driver's license.

17 11. On or about February 8, 2011, after pleading guilty, Respondent was convicted of two
18 (2) misdemeanor counts, Count 1, of violating Penal Code section 148(a)(1) [resisting arrest],
19 and Count 2, violating Vehicle Code section 14601.1(a) [drive with a suspended/revoked license]
20 in the criminal proceeding entitled *The People of the State of California v. Karina Serrano*
21 (Super. Ct. Kern County, 2008, No. BM731039A). The Court sentenced Respondent to one (1)
22 day in jail, and placed her on three (3) years probation with terms and conditions. The
23 circumstances underlying the conviction are that on or about April 27, 2008, Respondent drove a
24 vehicle while having a suspended license, and during the enforcement stop, she was
25 argumentative and resisted the officers.

26 12. On or about February 8, 2011, after pleading guilty, Respondent was convicted of one
27 count of violating Penal Code section 476A(a) [nonsufficient funds/checks over \$200] in the
28 criminal proceeding entitled *The People of the State of California v. Karina Serrano* (Super. Ct.

1 Kern County, 2006, No. BM696654A). The Court sentenced Respondent to one (1) day in jail,
2 placed her on three (3) years probation with terms and conditions, and ordered her to pay \$640.71
3 restitution. The circumstances underlying the conviction are that in exchange for services and / or
4 merchandise, Respondent wrote checks that were returned as insufficient funds by her banking
5 institution on June 25, 2004, Check No. 1164 to Price Less Clothing for \$5.71, and on October
6 29, 2004, Check No. 1053 to Stockdale Vet Hospital for \$600.00.

7 **SECOND CAUSE FOR DENIAL OF APPLICATION**

8 **(Acts Involving Dishonesty, Fraud, or Deceit)**

9 13. Respondent's application is subject to denial under section 480, subdivision (a)(2) of
10 the Code and section 4300, subdivision (c) of the Code as defined in section 4301, subdivision (f)
11 of the Code in that Respondent committed acts involving dishonesty, fraud, or deceit with the
12 intent to substantially benefit herself and / or substantially injure another when she wrote checks
13 that were returned as insufficient funds and drove without a valid license. The conduct is
14 described in more particularity in paragraphs 10 through 12 above, inclusive and herein
15 incorporated by reference.

16 **THIRD CAUSE FOR DENIAL OF APPLICATION**

17 **(Unprofessional Conduct: Dangerous Use of Alcohol)**

18 14. Respondent's application is subject to denial under section 480, subdivision (a)(2) of
19 the Code and section 4300, subdivision (c) of the Code as defined in section 4301, subdivision (h)
20 of the Code in that Respondent committed unprofessional conduct when she used alcoholic
21 beverages to the extent or in a manner as to be dangerous or injurious to herself and the public.
22 The conduct is described in more particularity in paragraph 10 above, inclusive and herein
23 incorporated by reference.

24 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

25 **(Act Which if Done by Licentiate Would be Cause for Discipline)**

26 15. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
27 of the Code as defined in section 4301, subdivision (f) of the Code in that Respondent committed
28 acts involving dishonesty, fraud or deceit, acts that if done by a licentiate of the business or

1 profession in question, would be grounds for suspension or revocation of license. The conduct is
2 described in more particularity in paragraphs 10 through 12 above, inclusive and herein
3 incorporated by reference.

4 16. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
5 of the Code as defined in section 4301, subdivision (h) of the Code in that Respondent used
6 alcohol in a manner or to an extent as to be dangerous to herself and the public, an act that if done
7 by a licentiate of the business or profession in question, would be grounds for suspension or
8 revocation of license. The conduct is described in more particularity in paragraph 10 above,
9 inclusive and herein incorporated by reference.

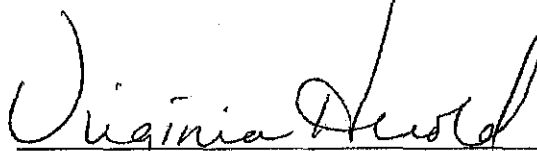
10 17. Respondent's application is subject to denial under section 480, subdivision (a)(3)(A)
11 of the Code as defined in section 490, subdivision (a) of the Code and section 4301, subdivision
12 (l) of the Code in conjunction with California Code of Regulations, title 16, section 1770 in that
13 Respondent was convicted of substantially related crimes, acts that if done by a licentiate of the
14 business or profession in question, would be grounds for suspension or revocation of license. The
15 conduct is described in more particularity in paragraphs 10 through 12 above, inclusive and
16 herein incorporated by reference.

17 PRAYER

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

- 20 1. Denying Karina Serrano's Pharmacy Technician License Application; and
21 2. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 5/29/12

24 

25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

LA2011601369
60698661.doc