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7 *Attorneys for Complainant*

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

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

Case No. 5863

13 **TERRI RENE CIRVES**
14 PO BOX 1085
Needles, CA 92363

PETITION TO REVOKE PROBATION

15 Pharmacist License No. RPH 40376

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about October 20, 1986, the Board issued Pharmacist License No. RPH 40376
24 to Terri Rene Cirves (Respondent). The Pharmacist License was in effect at all times relevant to
25 the charges brought herein and expired on July 31, 2016.

26 3. In a disciplinary action entitled "*In the Matter of Accusation Against Terri Rene*
27 *Cirves*," Case No. 5396, the Board of Pharmacy, issued a decision, effective March 17, 2016, in
28 which Respondent's Pharmacist License was revoked. However, the revocation was stayed and

1 Respondent's Pharmacist License placed on probation for a period of five (5) years with certain
2 terms and conditions. A copy of that decision is attached as **Exhibit A** and is incorporated by
3 reference.

4 JURISDICTION

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

8 5. Section 4300 provides in pertinent part, that every license issued by the Board is
9 subject to discipline, including suspension or revocation.

10 6. Section 4300.1 states:

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

16 7. The Petition to Revoke Probation is brought before the Board under Probation
17 Term and Condition 15 of the Decision and Order "*In the Matter of Accusation Against Terri*
18 *Rene Cirves*," Case No. 5396. That term and condition states:

19 **Violation of Probation**

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

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

1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Failure to Comply with Pharmacist Recovery Program)**

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

4 **Pharmacists Recovery Program (PRP)**

5 Within thirty (30) days of the effective date of this decision, respondent shall contact
6 the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately
7 thereafter enroll, successfully participate in, and complete the treatment contract and
8 any subsequent addendums as recommended and provided by the PRP and as
9 approved by the board or its designee. The costs for PRP participation shall be borne
10 by the respondent.

11 If respondent is currently enrolled in the PRP, said participation is now mandatory and
12 as of the effective date of this decision is no longer considered a self-referral under
13 Business and Professions Code section 4362(c)(2). Respondent shall successfully
14 participate in and complete her current contract and any subsequent addendums with
15 the PRP.

16 Failure to timely contact or enroll in the PRP, or successfully participate in and
17 complete the treatment contract and/or any addendums, shall be considered a violation
18 of probation.

19 Probation shall be automatically extended until respondent successfully completes the
20 PRP. Any person terminated from the PRP program shall be automatically suspended
21 by the board. Respondent may not resume the practice of pharmacy until notified by
22 the board in writing.

23 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
24 licensed practitioner as part of a documented medical treatment shall result in the
25 automatic suspension of practice by respondent and shall be considered a violation of
26 probation. Respondent may not resume the practice of pharmacy until notified by the
27 board in writing.

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

During suspension, respondent shall not engage in any activity that requires the

1 professional judgment of a pharmacist. Respondent shall not direct or control any
2 aspect of the practice of pharmacy. Respondent shall not perform the duties of a
3 pharmacy technician or a designated representative for any entity licensed by the
4 board.

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

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

9 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees
10 not timely paid to the PRP shall constitute a violation for probation. The board will
11 collect unpaid administrative fees as part of the annual probation monitoring costs if
12 not submitted to the PRP.

13 9. Respondent's probation is subject to revocation because she failed to comply with
14 Probation Condition 17, referenced above. The facts and circumstances regarding this violation
15 are as follows:

16 a. On May 9, 2016, Respondent initially contacted the PRP program and completed an
17 intake. During intake, Respondent was directed to enroll in FirstLab for random drug screening
18 within forty-eight hours. Respondent failed to enroll in FirstLab within forty-eight hours, or at any
19 time while participating in PRP.

20 b. On May 17, 2016, Respondent failed to appear for her scheduled clinical assessment.

21 c. On May 20, 2016, Respondent failed to respond to a voice mail directing her to
22 contact PRP by May 23, 2016, regarding her program compliance.

23 d. On May 25, 2016, Respondent was terminated from the PRP program as a public risk
24 for failure to complete a clinical evaluation, failure to enroll with FirstLab in random drug testing,
25 failure to submit a negative drug sample, and failure to comply with PRP program requirements.

26 SECOND CAUSE TO REVOKE PROBATION

27 (Failure to Submit to Random Drug Screening)

28 10. At all times after the effective date of Respondent's probation, Condition 18 stated:

Random Drug Screening

Respondent, at her own expense, shall participate in random testing, including but not
limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or
other drug screening program as directed by the board or its designee. Respondent

1 may be required to participate in testing for the entire probation period and the
2 frequency of testing will be determined by the board or its designee. At all times,
3 respondent shall fully cooperate with the board or its designee, and shall, when
4 directed, submit to such tests and samples for the detection of alcohol, narcotics,
5 hypnotics, dangerous drugs or other controlled substances as the board or its designee
6 may direct. Failure to timely submit to testing as directed shall be considered a
7 violation of probation. Upon request of the board or its designee, respondent shall
8 provide documentation from a licensed practitioner that the prescription for a detected
9 drug was legitimately issued and is a necessary part of the treatment of the respondent.
10 Failure to timely provide such documentation shall be considered a violation of
11 probation. Any confirmed positive test for alcohol or for any drug not lawfully
12 prescribed by a licensed practitioner as part of a documented medical treatment shall
13 be considered a violation of probation and shall result in the automatic suspension of
14 practice of pharmacy by respondent. Respondent may not resume the practice of
15 pharmacy until notified by the board in writing.

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

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

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

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

11. Respondent's probation is subject to revocation because she failed to comply with
Probation Condition 18, referenced above. The facts and circumstances regarding this violation
are that Respondent failed to enroll in FirstLab within forty-eight hours of her initial intake for
random drug screening, or at any time while participating in PRP, and did not submit any samples
for drug testing while participating in PRP.

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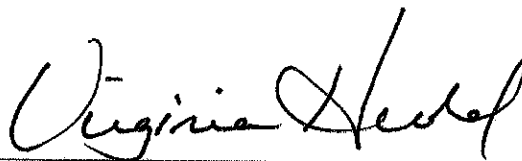
PRAYER

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

1. Revoking the probation that was granted by the Board in Case No. 5396 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License No. RPH 40376 issued to Terri Rene Cirves;
2. Revoking or suspending Pharmacist License No. RPH 40376, issued to Terri Rene Cirves; and
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

1/23/17



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

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 5396