

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

In the Matter of the Accusation Against:

SONJA PAULINE SMITH  
4734 Thurber Lane  
Santa Cruz, CA 95065

Pharmacist License No. RPH 37045

Respondent.

Case No. 2340

OAH No. N2001120455

**PROPOSED DECISION**

Administrative Law Judge Mary-Margaret Anderson, State of California, Office of Administrative Hearings, heard this matter in Santa Cruz, California on February 27, 2002.

Nicholas Sanchez, Deputy Attorney General, represented the Board of Pharmacy.

Respondent Sonja Pauline Smith was present and represented herself.

Evidence was received and the matter submitted on February 27, 2002.

**FACTUAL FINDINGS**

1. Complainant Patricia Florian Harris filed the Accusation in her official capacity as Executive Officer of the California Board of Pharmacy ("Board").
2. On December 3, 1981, the Board issued Pharmacist License Number RPH 37045 to Sonja Pauline Smith ("Respondent"). The license is currently scheduled to expire on May 31, 2002.
3. On October 8, 2000, at approximately midnight, police arrived at Respondent's residence. A neighbor had reported hearing screaming and other noise. Officers found Respondent in a highly intoxicated state. They also found methamphetamine on a bathroom counter.

Respondent's daughter arrived and told the officers that she and her mother had fought earlier in the evening. The fight included Respondent hitting her daughter several times.

4. On January 25, 2001, in the Santa Cruz County Superior Court, Respondent was convicted by her plea of nolo contendere of a misdemeanor violation of Health and Safety Code section 11377(a) (possession of methamphetamine).

As a result, she was placed on probation for a period of 36 months under standard and the following special terms and conditions: pay miscellaneous fines and fees and enter and complete the Janus Outpatient Program.

5. The Board incurred costs totaling \$1951.00 in the investigation and prosecution of the case. The costs are found to be reasonable.

#### *Respondent's Evidence*

6. Respondent testified in a credible and forthcoming manner regarding her arrest and subsequent events. Although she continues to deny that the methamphetamine in the bathroom was hers, she fully admitted drinking alcohol to excess and use of methamphetamine that night, and on other occasions.

Since the incident, she has pursued a formal program to support her commitment to stay drug free and refrain from use of alcohol. She has severed connections with those individuals who contributed to her recreational use of methamphetamine. Family members, including her daughter and mother were present at the hearing, and continue to offer support.

Respondent has worked continuously as a pharmacist since licensure, principally at the same Longs Drug Store in Capitola where she is currently employed. She greatly enjoys her work and is dependent upon it to support herself and her family.

7. Respondent presented lab reports dated November 10 and 28, 2000 and March 26 and April 7, 2001. Respondent tested negative for drugs on those dates.

Respondent completed the Janus of Santa Cruz Outpatient Intensive Program on April 11, 2001. She attended at least 15 12-Step meetings at Sobriety Works in 2000 and 2001.

Respondent submitted performance evaluations dated variously in 1990-1992. All were very positive.

8. Michael L. Croslin, M.D., is Respondent's brother. He testified in her support and also submitted a letter. Dr. Croslin is a practicing emergency room physician and a recovering alcoholic. He is very supportive of Respondent, and impressed by her recovery work. Although he currently resides in Sonora, they attend Alcoholics Anonymous meetings

together and he sees her regularly. He describes Respondent as an excellent pharmacist and a talented health professional.

9. A letter from Aneita S. Radov, a licensed marriage, family and child therapist was received in evidence. Ms. Radov treated Respondent four times beginning on October 26, 1999. In pertinent part, the letter states:

At this point, there is no reason to believe that there is any likelihood of this set of circumstances being repeated... There is no doubt in my mind that [Respondent] is highly motivated to do whatever is necessary to ...reestablish trust, and reaffirm the high standing in her profession that she has always enjoyed.

10. The following letters of reference were received:

A. Heather Bresnahan has worked with Respondent for about two years and rented a portion of her house for eight months. Ms. Bresnahan never witnessed any illegal drug use. She described Respondent as a dependable and reliable pharmacist and friend.

B. J. F. Cooper Jr., Karen Cooper and Vivian Cooper signed a joint letter. Respondent has been their pharmacist for over six years. As Vivian Cooper suffers from epilepsy, the family has needed special attention to her medications. They have relied upon Respondent's expertise extensively and trust her. Despite moving, they continue to patronize the drug store where Respondent is employed because of her professionalism and concern.

C. Jo and Pauline Croslin are Respondent's parents. Despite the challenges brought about by divorce and a shared custody arrangement, they have seen Respondent take responsibility and work to overcome difficulties. They feel she has been an excellent mother, working very hard to support her household with no financial support from her children's father.

D. Nancy Seymour has worked at Longs Drugs with Respondent for 19 years. Ms. Seymour is the bookkeeper and writes that Respondent's personal record was the best she ever encountered—she has never had a customer complaint. In pertinent part, she writes:

We all agree that [Respondent] used poor judgement on Sunday, October 8, 2001. Since that time she has done everything required of her and more. How [Respondent] has handled herself during this adversity is representative of her true professionalism.

E. Serena Smith is Respondent's daughter. She wrote an eloquent letter describing their relationship, which she believes is closer due to the difficulties they suffered in October of 2000. Most importantly, Ms. Smith states that she continues to live with her

mother by choice and that she sees no evidence of drug use. She states that the fight they had was the first and only one, and believes the circumstances were not fully communicated to the authorities at the time.

F. Gordon Kong is the Pharmacy Manager at Longs Drugs in Capitola. He wrote that Respondent has been a pharmacist in good standing for the last ten years during his tenure, and that she has operated in a professional manner.

G. Richard Croslin is Respondent's brother. He was formerly a special agent for the U. S. Drug Enforcement Agency and currently works as a background investigator for the Miwok Indian Gaming Commission. Mr. Croslin emphasizes his background in law enforcement and describes his sister as an excellent person who has taken responsibility for her actions. He believes that Respondent is committed to her children and her pharmacy customers.

## LEGAL CONCLUSIONS

1. Cause for disciplinary action exists pursuant to Business and Professions Code section 4301(h) by reason of the matters set forth in Finding 3 (use of dangerous drugs<sup>1</sup>/alcohol to excess).

2. Cause for disciplinary action exists pursuant to Business and Professions Code section 4301(j) by reason of the matters set forth in Findings 3 and 4 (violation of statute regarding dangerous drugs).

3. Cause for disciplinary action exists pursuant to Business and Professions Code section 4301(l) by reason of the matters set forth in Finding 4 (conviction of a crime substantially related to the qualifications, functions and duties of a pharmacy licensee).

4. Cause exists pursuant to Business and Professions Code section 125.3 to order Respondent to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case. As set forth in Finding 5, the evidence established that those costs totaled \$1951.00.

5. Although Respondent is still on criminal probation, she appears to be well on her way to recovery from misuse of alcohol and some recreational use of illegal drugs. Although her actions and conviction are related to her licensure as a pharmacist, there was no direct connection. When the totality of the circumstances are examined, it appears that the incident leading to her arrest was an aberrant episode in an otherwise law-abiding life. Respondent received a loud wake-up call. Her response has been more than appropriate and she has strong support in the community and from her family. The public interest will be

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<sup>1</sup> Methamphetamine is a dangerous drug within the meaning of Business and Professions Code section 4211, and a Schedule II controlled substance as listed in section 11055(d)(2) of the Health and Safety Code.

sufficiently protected by a period of probation with appropriate terms and conditions, including those designed to support her continued recovery.

## ORDER

License No. RPH 37045 issued to Sonja Pauline Smith is revoked; however, the revocation is stayed and Respondent is placed on probation for three years upon the following terms and conditions:

1. Obey All Laws

Respondent shall obey all federal and state laws and regulations substantially related or governing the practice of pharmacy.

2. Reporting to the Board

Respondent shall report to the Board or its designee quarterly. The report shall be made either in person or in writing, as directed. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made.

3. Interview with the Board

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the Board or its designee upon request at various intervals at a location to be determined by the Board or its designee. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

4. Cooperation with Board Staff

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

5. Peer Review

Respondent shall submit to peer review as deemed necessary by the Board.

6. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

7. Notice to Employers

Respondent shall notify all present and prospective employers of the decision in case No. 2340 and the terms, conditions and restrictions imposed on respondent by the decision. Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking new employment, respondent shall cause his/her employer to report to the Board in writing acknowledging the employer has read the decision in case No. 2340.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the pharmacist-in-charge and/or owner at every pharmacy at which he/she is to be employed or used of the fact and terms of the decision in case number in advance of the respondent commencing work at the pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacist, whether the respondent is considered an employee or independent contractor.

8. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge

Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge of any pharmacy licensed by the Board.

9. Reimbursement of Board Costs

Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$1951.00.

Respondent may pay the Board in installments over the course of her probationary period as arranged with the Board.

Respondent's license will not be fully restored, despite the passage of three years and compliance with other terms and conditions, until the Costs have been paid in full.

Failure to pay such costs shall be considered a violation of probation.

10. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board at the end of each year of probation.

Failure to pay such costs shall be considered a violation of probation.

11. Status of License

Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is toned.

If respondent's license expires by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms of this probation not previously satisfied.

12. Notification of Employment/Mailing Address Change

Within ten (10) days of a change in employment -- either leaving or commencing employment -- respondent shall so notify the Board in writing, including the address of the new employer; within ten (10) days of a change of mailing address, respondent shall notify the Board in writing. If respondent works for or is employed through a pharmacy employment service, respondent shall, as requested, provide to the Board or its designee with a work schedule indicating dates and location of employment.

13. Tolling of Probation

If respondent leaves California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return within ten (10) days of departure or return. Periods of residency, except such periods where the respondent is actively practicing pharmacy within California, or practice outside California shall not apply to reduction of the probationary period.

Should respondent, regardless of residency, for any reason cease practicing pharmacy in California, respondent must notify the Board in writing within ten (10) days of cessation of the practice of pharmacy or resuming the practice of pharmacy. "Cessation of practice" means any period of time exceeding thirty (30) days in which respondent is not engaged in the practice of pharmacy as defined in section 4052 of the Business and Professions Code.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a consecutive period of three years.

14. Violation of Probation

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

If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be

extended until all terms and conditions have been met 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 which was stayed.

15. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

16. Rehabilitation Program - Pharmacist Recovery Program (PRP)

Within thirty (30) days of the effective date of this decision, respondent shall contact the Pharmacist Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendum as recommended and provided by the PRP and as approved by the Board. The costs for PRP participation shall be borne by the respondent. Probation shall be extended automatically until respondent successfully completes his or her treatment contract.

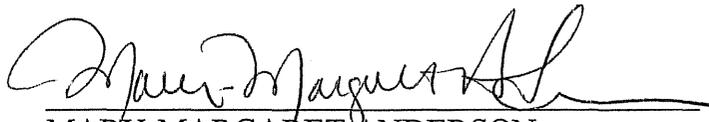
17. Random Fluid Testing

Respondent shall immediately submit, with or without prior notice, to biological fluid testing, at respondent's expense, upon the request of the Board or its designee. The length and frequency of this testing requirement will be determined by the Board.

18. Abstain From Drug Use

Respondent shall abstain completely from the personal use or possession of controlled substances and dangerous drugs. This order does not apply in instances where medications are lawfully prescribed to the respondent for a legitimate illness or condition by a physician, dentist or podiatrist and where respondent, upon request of the Board or its designee, provides documentation from the treating physician, dentist or podiatrist that the prescription was legitimately issued and is a necessary part of the treatment of the respondent.

DATED: March 29, 2002

  
MARY-MARGARET ANDERSON  
Administrative Law Judge  
Office of Administrative Hearings

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

In the Matter of the Accusation Against:

SONJA PAULINE SMITH  
4734 Thurber Lane  
Santa Cruz, CA 95065

Pharmacist License No. RPH 37045

Respondent.

Case No. 2340

OAH No. N2001120455

**DECISION**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This Decision shall become effective on June 1, 2002.

IT IS SO ORDERED May 2, 2002.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By:

  
STEVE LITSEY  
Board President

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

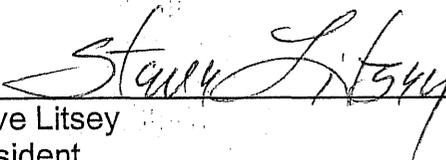
In The Matter of the Accusation	)	No. 2340
Against:	)	
	)	
Sonja Smith	)	Accusation
4734 Thurber Lane	)	
Santa Cruz, CA 95065	)	
	)	
Pharmacist License No. RPH 37045	)	
	)	
Respondent.	)	
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**ORDER SETTING ASIDE DEFAULT DECISION**

The Board of Pharmacy, having considered respondent's request to set aside the default decision dated July 31, 2001, in the above entitled case and good cause appearing in the record therefor,

IT IS HEREBY ORDERED that the Default Decision dated July 19, 2001, with an effective date of August 18, 2001, which was stayed until a decision was made on the request to set aside, is hereby set aside and the matter shall proceed forward in accordance with the Administrative Procedures Act.

IT IS SO ORDERED this 12<sup>th</sup> day of September, 2001.

  
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Steve Litsey  
President  
Board of Pharmacy



1 determined that respondent waived her rights to a hearing to contest the merits of the accusation  
2 and is in default. The Department will take action on the accusation and evidence herein without  
3 a hearing, and makes the following findings of fact:

4 1. Complainant Patricia Florian Harris filed the accusation in her official capacity as  
5 Executive Officer, Board of Pharmacy ("Board"), Department of Consumer Affairs  
6 ("Department").

7 JURISDICTION

8 2. California Business and Professions Code ("Code") section 4300 provides that every  
9 certificate, license, permit, registration or exemption issued by the Board may be suspended or  
10 revoked.

11 3. California Business and Professions Code ("Code") Section 4301 provides that the  
12 Board shall take action against any holder of a license who is guilty of unprofessional  
13 conduct....Unprofessional conduct shall include, but is not limited to, the following:

14 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
15 deceit, or corruption whether the act is committed in the course of relations as a licensee or  
16 otherwise, and whether the act is a felony or misdemeanor or not;

17 (h) The administering to oneself, of any controlled substance, or the use of any  
18 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
19 injurious to oneself...or to any other person or to the public...;

20 (j) The violation of any of the statutes of this state or of the United States  
21 regulating controlled substances or dangerous drugs; and

22 (p) Actions or conduct that would have warranted denial of a license.

23 4. Code section 4306.5 provides that unprofessional conduct for a pharmacist may  
24 include acts or omissions that involve, in whole or in part, the exercise of her education, training,  
25 or experience as a pharmacist, whether or not the act or omission arises in the course of the  
26 practice of pharmacy.

27 5. Health and Safety Code section 11055(d)(2) designates methamphetamine as a

1 dangerous drug and a Schedule II controlled substance.

2 6. Health and Safety Code section 11170 provides that it is a crime to self-administer  
3 controlled substances without proper authorization.

4 7. Health and Safety Code section 11377(a) provides that it is a crime to possess  
5 methamphetamine without proper authorization.

6 8. Health and Safety Code section 11173(a) provides that obtaining, or attempting to  
7 obtain controlled substances by fraud, deceit or subterfuge is a felony.

8 9. Penal Code section 273(a) provides that it is a crime to inflict willful harm/injury  
9 upon a child.

10 10. Penal Code section 273(g) provides that it is a crime to be intoxicated in the  
11 presence of a child.

12 CAUSES FOR DISCIPLINE

13 11. Respondent has subjected her license to discipline for the violations of Code section  
14 4301(f), (h), (j) and (p) taken together with Code section 4306.5, in that on October 8, 2000, the  
15 Santa Cruz Sheriff's Office was dispatched to her residence to investigate a potential domestic  
16 dispute. When they arrived, they contacted an intoxicated Respondent and her sober 16 year-old  
17 daughter. Respondent was found in possession of methamphetamine. An investigation of this  
18 incident, together with a urinalysis taken later, revealed that Respondent was in violation of the  
19 Penal Code and Health and Safety Code. Specifically, Respondent was found to be in possession  
20 and under the influence of methamphetamine, under the influence of alcohol in the presence of a  
21 child and to have inflicted willful harm/injury on a child. She was arrested by the authorities and  
22 taken to jail.

23 12. Respondent has further subjected her license to discipline under Code Section 4301  
24 (general unprofessional conduct), for the reasons set forth in paragraph 11.

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DETERMINATION OF ISSUES

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Based upon the foregoing findings of fact, grounds exist to revoke respondent's Pharmacist License No. RPH 37045 under Business and Professions Code sections 4300 and 4301.

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ORDER

WHEREFORE, the Director of Consumer Affairs, Board of Pharmacy, makes an order revoking the Pharmacist License No. RPH 37045, issued to Sonja Pauline Smith.

This decision shall become effective on the 18th day of August, 2001.

Dated and signed this 19th day of July, 2001.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By   
STEVE LITSEY  
Board President

1 BILL LOCKYER, Attorney General  
of the State of California  
2 JONATHAN A. BORNSTEIN, State Bar No. 196345  
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3 California Department of Justice  
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Telephone: (510) 622-2125  
5 Facsimile: (510) 622-2270

6 Attorneys for Complainant

7  
8  
9 BEFORE THE  
BOARD OF PHARMACY  
10 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
11

12 In the Matter of the Accusation Against: )  
13 SONJA PAULINE SMITH ) NO. 2340  
4734 Thurber Lane ) ACCUSATION  
14 Santa Cruz, California 95065 )  
15 Pharmacist License No. RPH 37045 )  
16 Respondent. )

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19 Complainant Patricia Florian Harris, as cause for disciplinary action, alleges:

20 1. Complainant is the Executive Officer of the California Board of Pharmacy ("Board")  
21 and makes and files this accusation solely in her official capacity.

22 LICENSE INFORMATION

23 2. On December 3, 1981, Pharmacist License Number RPH 37045 was issued by the  
24 Board to Sonja Pauline Smith ("Respondent"). The License currently is, and was at all times  
25 relevant in full force and effect and will expire, unless renewed, on May 31, 2002.

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STATUTES AND REGULATIONS

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2           3. California Business and Professions Code ("Code") Section 4301 provides that the  
3 Board shall take action against any holder of a license who is guilty of unprofessional  
4 conduct....Unprofessional conduct shall include, but is not limited to, the following:

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

8                   (h) The administering to oneself, of any controlled substance, or the use of any  
9 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or  
10 injurious to oneself...or to any other person or to the public...;

11                   (j) The violation of any of the statutes of this state or of the United States  
12 regulating controlled substances or dangerous drugs; and

13                   (p) Actions or conduct that would have warranted denial of a license.

14           4. Code section 4306.5 provides that unprofessional conduct for a pharmacist may  
15 include acts or omissions that involve, in whole or in part, the exercise of her education, training,  
16 or experience as a pharmacist, whether or not the act or omission arises in the course of the  
17 practice of pharmacy.

18           5. Health and Safety Code section 11055(d)(2) designates methamphetamine as a  
19 dangerous drug and a Schedule II controlled substance.

20           6. Health and Safety Code section 11170 provides that it is a crime to self-administer  
21 controlled substances without proper authorization.

22           7. Health and Safety Code section 11377(a) provides that it is a crime to possess  
23 methamphetamine without proper authorization.

24           8. Health and Safety Code section 11173(a) provides that obtaining, or attempting to  
25 obtain controlled substances by fraud, deceit or subterfuge is a felony.

26           9. Penal Code section 273(a) provides that it is a crime to inflict willful harm/injury  
27 upon a child.



PRAYER

WHEREFORE, Complainant requests that the Board hold a hearing on these matters, and that following the hearing, the Board issue a decision:

- 1.Revoking or suspending Pharmacist License Number RPH37045, issued to Sonja Pauline Smith;
2. Awarding the Board costs as provided by statute; and
3. Taking such other and further action as the Board deems proper.

DATED: 2/15/01

P. J. Harris  
Patricia Harris  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant