

BEFORE THE
CALIFORNIA STATE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

In the Matter of the Petition for Reinstatement of
Certificate to Practice Pharmacy of:

DEWANE MCCONNELL
Oroville, California

Pharmacist License No. RPH 35655

Petitioner.

Case No. 2237

OAH No. N2007040270

DECISION

This matter was heard before the California State Board of Pharmacy on April 19, 2007, in Sacramento, California. Board members present and participating in the hearing were: William Powers, President; Dr. Kenneth H. Schell, Vice President; Dr. Ruth M. Conroy; D. Timothy Dazé; Stanley W. Goldenberg; Robert Graul; Dr. Clarence K. Hiura; Henry A. Hough; Dr. Susan L. Ravnan; and Dr. Robert E. Swart. Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Joshua A. Room, Deputy Attorney General, appeared pursuant to Government Code section 11522.

The petitioner, Dewane McConnell, appeared in propria persona.

The matter was submitted on April 19, 2007.

ISSUE

Should petitioner's certificate to practice pharmacy be reinstated?

FACTUAL FINDINGS

BACKGROUND

1. On August 20, 1980, the State Board of Pharmacy issued pharmacist license number RPH 35655 to the petitioner, Dewane McConnell.
2. On November 25, 1998, petitioner was convicted of a violation of Penal Code section 273.5, corporal injury to a cohabitant, a felony, with use of a firearm. The court sentenced petitioner to a term in prison, and petitioner was in prison from 1998 to 2003.
3. Petitioner's conviction resulted from an incident that occurred on August 6, 1997. Petitioner, while intoxicated, attacked his fiancée and threatened her with a gun.
4. Petitioner was licensed as a pharmacist by the State of Oregon, also. By an order dated June 21, 1999, the Oregon Board of Pharmacy revoked his license because of his criminal conviction.
5. In an accusation dated July 1, 1999, Patricia F. Harris, Executive Officer of the Board of Pharmacy, State of California, alleged the criminal conviction and alleged that petitioner had used alcoholic beverages to an extent or in a manner that was dangerous or injurious to himself, to a person holding a license, to another person, or to the public. Ms. Harris alleged in the alternative that petitioner had used alcoholic beverages to the extent that the use impaired petitioner's ability to conduct with safety the practice authorized by his license. Ms. Harris further alleged that petitioner's use of alcohol had affected his short-term memory and resulted in errors and omissions in filling prescriptions and in repeated failures to open his pharmacy. Based on the accusation, the board entered a default decision revoking petitioner's license. The decision became effective on November 4, 1999.
6. In August of 2003, petitioner was released from prison on parole. The term of parole was three years, and petitioner completed his parole on August 21, 2006.
7. By a petition dated October 19, 2006, petitioner petitioned for reinstatement of his license. The hearing in the present matter is on that petition.

PROFESSIONAL DEVELOPMENT

8. While petitioner was in prison, he studied *U. S. Pharmacist* each month for three years and took all of the continuing education self examinations. He declares that he felt confident about the material and had no trouble with the examinations. Since being released, petitioner has continued to take the examinations in *U. S. Pharmacist*. He has also taken examinations in *Pharmacy Times* and on the internet.
9. Petitioner has studied the board's 2006 *Pharmacy Law with Rules and Regulations*. He receives newsletters and alerts.

10. Since petitioner's license was revoked, he has completed 120 hours of continuing education. Of those hours, 108 were board approved.

REHABILITATION

11. Petitioner has been sober for more than nine years.

12. For the last three and one-half years of petitioner's incarceration, he worked as an inmate fire fighter in King County and the city of Avenal. He lived outside the prison at a fire station and responded to dozens of fires. He cut fire breaks and provided life-safety and structure protection.

13. As a condition of petitioner's parole, he was required to complete an anger management course. By a letter dated February 17, 2004, Cynthia McCombs, L.C.S.W., confirmed that petitioner had attended an anger management course at Feather River Tribal Health, Inc. Ms. McCombs wrote:

Mr. Dewane McConnell attended six weeks of Anger Management classes through Feather River Tribal Health. Mr. McConnell's attendance was perfect, and he participated at each and every group. This indicated to me a clear, focused effort to increase his ability to cope with stressors and commitment to healthier choices in his personal and professional life.

14. After petitioner was released from prison, he lived with his mother for one year. He then purchased a home of his own and moved into it.

15. Since petitioner was released from prison, he has been employed. From September of 2003 to November of 2004, he worked at Modern Dry Cleaners. From November of 2004 to the present, he has worked for Duke Sherwood Contracting Inc. operating a computer program that produces estimates.

16. Since petitioner was released from prison, he has been attending church at First Assembly of God in Oroville.

17. Petitioner's social life revolves around family events, his church, and playing softball. He said the members of his church know about his alcoholism and conviction and that they are his support group.

18. Petitioner declares that he is ashamed of the things he did in 1995 through 1997. He said that, at that time, he felt he had not achieved what he wanted in his personal life. In 1995 he became involved in a destructive relationship that was on-again off-again for two and one-half years. On the occasion of each break up, petitioner drank heavily. He drank heavily for two years. By the spring of 1997, petitioner's drinking was affecting his health and work.

19. Petitioner says he has done a great deal of soul searching and has come to grips with the emotional problems that led to a crisis in his life ten years ago. He says he is happy today and has no reason to drink or offend again. He has children and grandchildren. He and his former fiancée are no longer romantically involved with each other. They, however, are friends.

20. Petitioner declares that he is devoted to the profession of pharmacy and is eager to be able to practice again.

LETTERS OF RECOMMENDATION

21. James E. Gamette wrote a letter dated September 5, 2006. He wrote that he and petitioner had been partners in operating a pharmacy at one time. He is of the opinion that petitioner has come to grips with the problems that led to his conviction and the loss of his license. Mr. Gamette wrote that petitioner is honest and professional. He highly recommends that petitioner's license be reinstated.

22. Kenneth W. Harlan wrote a letter dated September 12, 2006. He and petitioner had been partners in operating a pharmacy at one time. Mr. Harlan wrote that petitioner was honest and professional. He wrote that petitioner has made the changes he needed to make in his life. Mr. Halan hopes the board will reinstate petitioner's license.

23. Robert McGaha wrote a letter dated September 15, 2006. He and petitioner were in high school and college together. Mr. McGaha wrote that petitioner deserves to have his license reinstated and that he will be a real value to the profession.

24. James P. McCarthy wrote a letter dated September 26, 2006. He has known petitioner since 1980 when they worked together as pharmacists at Longs Drugs in Oroville, California. Mr. McCarthy wrote that he supervised petitioner for a number of years and that petitioner is a person of uncompromising professionalism, that he has excellent judgment, and that he is committed to the profession. Mr. McCarthy recommends that petitioner's license be reinstated.

25. Tom Britton wrote a letter dated September 30, 2006. He was petitioner's employer when petitioner worked at Modern Dry Cleaners. Mr. Britton wrote that petitioner worked for him for over one year, never missed a day's work, and was always punctual. Mr. Britton wrote that petitioner is resourceful, cheerful, responsible, honest, and trustworthy.

26. Jeff Wilson, D.D.S., wrote a letter dated October 4, 2006. He has known petitioner since 1975. Dr. Wilson wrote that petitioner has come to terms with his past problems, has been sober for over eight years, and regularly attends church. Dr. Wilson knows petitioner to be honest, hard working, and professional. He highly recommends that petitioner's license be reinstated.

27. Cheryl Clark wrote a letter dated October 7, 2006. Ms. Clark is a pharmacy technician. She and petitioner worked together for almost four years. She wrote that petitioner is conscientious, kind, and patient. Ms. Clark and petitioner attend the same church. She noted that petitioner operates the church sound system and plays on a church softball team. Ms. Clark is of the opinion that petitioner is more than ready to bear the responsibility of being a pharmacist.

28. Sue Belshe wrote a letter dated October 3, 2006. Ms. Belshe is Mr. Britton's daughter, and she has known petitioner since September of 2003, when he started working at Modern Dry Cleaners. Ms. Belshe is of the opinion that petitioner has learned some very hard lessons, has made positive changes, and is ready to move on in a positive direction. She wrote, "I know I would trust him as a pharmacist."

29. Robert E. Sherwood is petitioner's current employer. He wrote a letter dated October 13, 2006. He wrote that he has known petitioner for 40 years and visited him in prison several times a year. Mr. Sherwood wrote that petitioner is punctual and reliable. He has not missed a day's work since Mr. Sherwood hired him in November of 2004. Mr. Sherwood wrote that petitioner is one of the finest individuals he has ever known.

30. The Reverend E.E. Smith, Pastor, First Assembly of God, Oroville, wrote a letter dated October 13, 2006. He has known petitioner for many years. Since petitioner's release from prison, he has attended church faithfully. Reverend Smith wrote that petitioner is a person of excellent character, ability, and integrity. Reverend Smith highly recommends that petitioner's license be reinstated.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 11 through 30, it is determined that petitioner has made substantial progress toward rehabilitation and that it would not be against the public interest to issue a probationary license. Petitioner's work as a fire fighter is evidence that he was making strides toward rehabilitation while still serving his prison term. His nine years of sobriety, his participation in the anger management class, and his successful completion of parole are evidence of progress toward rehabilitation. The fact that petitioner has been employed and has not missed work tends to corroborate other evidence of his sobriety and speaks well of him. And petitioner's remorse and determination are further evidence that he has made significant progress toward rehabilitation. Finally, the letters of recommendation are reassuring. They speak to petitioner's character and habits in very positive ways.

2. By reason of the matters set forth in Findings 8 through 10, it is determined that petitioner has satisfactorily maintained his knowledge as a pharmacist.

3. Petitioner's license should be reinstated subject to appropriate conditions of probation.

ORDER

The petition for reinstatement is granted. If petitioner satisfies all statutory and regulatory requirements for issuance of a license, the board shall reinstate his license. The license shall immediately be revoked. The revocation shall be stayed, however, for three years, and petitioner shall be placed on probation on the following conditions:

1. Petitioner shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy. Petitioner shall report any of the following occurrences to the board, in writing, within 72 hours of such occurrence: an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state or federal food and drug laws, or state or federal controlled substances laws; a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information, or indictment; a conviction of any crime; discipline, citation, or other administrative action filed by any state or federal agency that involves petitioner's license or that is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing for, or charging for any drug, device, or controlled substance.
2. Petitioner shall report to the board quarterly. The report shall be made either in person or in writing, as directed. Petitioner shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.
3. On receipt of reasonable notice, petitioner shall appear in person for interviews with the board on request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.
4. Petitioner shall cooperate with the board's inspectional program and in the board's monitoring and investigation of petitioner's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.

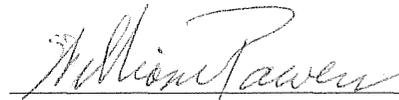
5. Petitioner shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board.
6. Petitioner shall notify all present and prospective employers of this decision and the terms, conditions, and restrictions imposed on petitioner by this decision. Within 30 days of the effective date of this decision, and within 15 days of petitioner undertaking new employment, petitioner shall cause his or her direct supervisor, pharmacist-in-charge, and/or owner to report to the board in writing acknowledging that the employer has read this decision. If petitioner works for or is employed by or through a pharmacy employment service, petitioner must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the terms and conditions of this decision in advance of petitioner's commencing work at each pharmacy. "Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief, or pharmacy management service as a pharmacist, whether petitioner is considered an employee or independent contractor.
7. Petitioner shall not supervise any intern pharmacist or perform any of the duties of a preceptor. Petitioner shall not be the pharmacist-in-charge of any entity licensed by the board unless otherwise specified in this order.
8. Petitioner shall pay the costs associated with probation monitoring as determined by the board each 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.
9. Petitioner shall, at all times while on probation, maintain an active, current license with the board, including any period during which suspension or probation is tolled. If petitioner's license expires or is cancelled by operation of law or otherwise, on renewal or reapplication, petitioner's license shall be subject to all terms and conditions of this probation not previously satisfied.
10. Following the effective date of this decision, should petitioner cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, petitioner may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. On formal acceptance of the surrender of the license, petitioner will no longer be subject to the terms and conditions of probation. On acceptance of the surrender, petitioner shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Petitioner may not reapply for any license from the board for three years from the effective date of the surrender. Petitioner shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

11. Petitioner shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor, or owner and work schedule if known. Petitioner shall notify the board in writing within 10 days of a change in name, mailing address, or phone number.
12. Should petitioner, regardless of residency, for any reason cease practicing pharmacy for a minimum of 80 hours per calendar month in California, petitioner must notify the board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for petitioner's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years. "Cessation of practice" means any period of time exceeding 30 days in which petitioner is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code for at least 80 hours a calendar month.
13. If petitioner violates probation in any respect, the board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against petitioner during probation, the board shall have continuing jurisdiction, and the period of probation shall be extended until the petition to revoke probation or accusation is heard and decided.
14. If petitioner has not complied with any term or condition of probation, the board shall have continuing jurisdiction over petitioner, and probation shall automatically be 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.
15. Petitioner, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the board. The length of time shall be for the entire probation period, and the frequency of testing will be determined by the board. At all times petitioner shall fully cooperate with the board and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs, or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by petitioner. Petitioner may not resume the practice of pharmacy until notified by the board in writing.

16. Petitioner shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs, and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. On request of the board, petitioner shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the petitioner. Petitioner shall ensure that he or she is not in the presence of or in the same physical location as individuals who are using illicit substances even if petitioner is not personally using the drugs.
17. On petitioner's successful completion of probation, his or her license will be fully restored.

DATED: May 31, 2007

Effective Date: June 6, 2007



WILLIAM POWERS
President
California State Board of Pharmacy

1 said Original Pharmacy Licentiate was until July 1, 1999, in full force and effect. On July 1,
2 1999, respondent's license was automatically suspended under the provisions of Business and
3 Professions Code section 4311(a), notice having been sent on July 6, 1999. No request by
4 respondent for a hearing has been made.

5 3. This accusation is made in reference to the following statutes of the California
6 Business and Professions Code ("Code"):

7 Section 4301 provides in pertinent part:

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

12 (a) gross immorality.

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

16 (h) The administering to oneself of any controlled substance, or the use of any
17 dangerous drugs or of alcoholic beverages to the extent or in a manner as to be dangerous or
18 injurious to oneself, to a person holding a license under this chapter or to any other person or to
19 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
20 the public the practice authorized by the license.

21 (1) The conviction of a crime substantially related to the qualifications, functions,
22 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances

1 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
2 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
3 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
4 meaning of this provision. The board may take action when the time for appeal has elapsed, or
5 the judgment of conviction has been affirmed on appeal or when an order granting probation is
6 made suspending the imposition of sentence, irrespective of a subsequent order under Section
7 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
8 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
9 information, or indictment.

10 4. On or about November 25, 1998, respondent was convicted on his plea of no
11 contest to one count of violation of Penal Code section 273.5 (a) (corporal injury to cohabitant) a
12 felony, with personal use of a firearm under section 1203.06 (a) (1) and 12022.5 (a), in Butte
13 County Superior Court, State of California, Case Number CM 009463, entitled "People v.
14 Dewane Claude McConnell."

15 The circumstances surrounding the conviction are substantially related to the
16 qualifications, functions, or duties of a pharmacist in that on or about August 6, 1997,
17 respondent did wilfully and unlawfully inflict corporal injury resulting in traumatic condition
18 upon Mary Mardilla, who was a person cohabiting with respondent with personal use of a
19 firearm.

20 5. On or about April 21, 1997, respondent used unknown quantities of alcoholic
21 beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person
22 holding a license under this chapter, or to any other person or to the public, or to the extent the
23 use impairs the ability of respondent to conduct with safety to the public the practice authorized
24 by the license in that he suffered from decline of short-term memory resulting in errors and
25 omissions in filling prescriptions and repeated failures to open the pharmacy.

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DETERMINATION OF ISSUES

Based on the foregoing findings of fact, as set forth in paragraphs 4 and 5 above, respondent has subjected his license to discipline under Business and Professions Code section 4301, subsections (a), (f), (h) and (l) for unprofessional conduct.

LOCATION OF RECORD

The record on which this Default Decision and Order is based is located at the Sacramento office of the Board of Pharmacy, 400 R Street, Suite 4070, Sacramento, California.

ORDER

WHEREFORE, for the aforesaid causes, the Board of Pharmacy makes its order revoking Original Pharmacy Licentiate No. RPH35655 issued to Dewane C. McConnell.

This Decision shall become effective on the 4th day of November, 1999.

Dated and signed this 5th day of October, 1999.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
RICHARD B. MAZZONI
Board President

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6
7

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

12 In the Matter of the Accusation Against:)

NO. 2237

13 DEWANE C. McCONNELL)
495 Stimpson Road)
14 Oroville, CA 95965)

ACCUSATION

15 And)

16 DEWANE C. McCONNELL CDC K97718)
P.O. Box 9)
17 Avenal State Prison)
Avenal, CA 93204)

18 Original Pharmacist)
19 Licentiate RPH 35655)

20 Respondent.)
21

22 Complainant Patricia F. Harris, who as cause for disciplinary action, alleges:

23 PARTIES

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

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LICENSE STATUS

2. On or about August 20, 1980, Original Pharmacy Licentiate No. RPH 35655 was issued by the Board to Dewane McConnell ("respondent"), and at all times relevant herein, said Original Pharmacy Licentiate was and currently is, in full force and effect.

JURISDICTION

3. This accusation is made in reference to the following statutes of the California Business and Professions Code ("Code"):

a. Section 4301 provides 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:

(a) gross immorality.

(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 drugs 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) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving

1 controlled substances or dangerous drugs, to determine if the conviction is of an offense
2 substantially related to the qualifications, functions, and duties of a licensee under this chapter.
3 A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
4 conviction within the meaning of this provision. The board may take action when the time for
5 appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order
6 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
7 order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
8 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
9 accusation, information, or indictment.

10 b. Section 125.3 provides, in part, that the Board may request the administrative
11 law judge to direct any licentiate found to have committed a violation or violations of the
12 licensing act, to pay the board a sum not to exceed the reasonable costs of the investigation and
13 enforcement of the case.

14 FACTS

15 4. On or about November 25, 1998, respondent was convicted on his plea of no
16 contest to one count of violation of Penal Code section 273.5 (a) (corporal injury to cohabitant) a
17 felony, with personal use of a firearm under section 1203.06 (a) (1) and 12022.5 (a), in Butte
18 County Superior Court, State of California, Case Number CM 009463, entitled "People v.
19 Dewane Claude McConnell."

20 The circumstances surrounding the conviction are substantially related to the
21 qualifications, functions, or duties of a pharmacist in that on or about August 6, 1997,
22 respondent did wilfully and unlawfully inflict corporal injury resulting in traumatic condition
23 upon Mary Mardilla, who was a person cohabiting with respondent with personal use of a
24 firearm.

25 5. On or about April 21, 1997, respondent used unknown quantities of
26 alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a
27 person holding a license under this chapter, or to any other person or to the public, or to the
28 extent the use impairs the ability of respondent to conduct with safety to the public the practice
authorized by the license in that he suffered from decline of short-term memory resulting in

1 errors and omissions in filling prescriptions and repeated failures to open the pharmacy.

2 VIOLATIONS

3 6. Respondent has subjected his license to discipline pursuant to Business and
4 Professions Code section 4301, subsections (a), (f), and (l) for unprofessional conduct set forth
5 in the allegations of fact contained in paragraph 4.

6 7. Respondent has subjected his license to discipline pursuant to Business and
7 Professions Code section 4301 (h) for unprofessional conduct set forth in the allegations of fact
8 contained in paragraph 5.

9 PRAYER

10 **WHEREFORE**, complainant requests that a hearing be held on the matters
11 alleged herein, and that following said hearing, the Board issue a decision:

- 12 1. Revoking, suspending, or otherwise imposing discipline upon Original
13 Pharmacy Licentiate No. RPH 35655 issued to respondent Dewane C. McConnell;
14 2. Awarding the Board costs as provided by statute; and,
15 3. Taking such other and further action as the Board deems proper.

16 DATED: 7/1/99

17
18 *P. F. Harris*

19 Patricia F. Harris
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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26 110 SA99AD0741

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