

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

In the Matter of the Accusation Against:

Case No. 3176

KELLIE QUINN FLOOD

PMB 138 2220
Coit Road 480
Plano, TX 75075

Pharmacist License No. RPH 58088

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 November 25, 2009.

It is so ORDERED October 26, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN, Attorney General
of the State of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 THOMAS L. RINALDI, State Bar No. 206911
Deputy Attorney General
4 California Department of Justice
300 S. SPRING STREET, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2541
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3176

13 KELLIE QUINN FLOOD
PMB 138 2220
14 Coit Road 480
Plano TX 75075

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Pharmacist License No. RPH 58088

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
19 above-entitled matter:

20 PARTIES

21 1. Virginia Herold, Executive Officer (Complainant) is the Executive Officer
22 of the Board of Pharmacy. She brought this action solely in her official capacity and is
23 represented in this matter by Edmund G. Brown, Attorney General of the State of California, by
24 Thomas L. Rinaldi, Deputy Attorney General.

25 2. On or about January 26, 2006, the Board of Pharmacy issued Pharmacy
26 License No. RPH 58088 to Kellie Quinn Flood (Respondent). The License was in full force and
27 effect at all times relevant to the charges brought in Accusation No. 3176 and will expire on
28 August 31, 2009, unless renewed.

1 3. Accusation No. 3176 was filed before the Board of Pharmacy (Board),
2 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
3 and all other statutorily required documents were properly served on Respondent on July 29,
4 2008. Respondent filed her Notice of Defense contesting the Accusation. A copy of Accusation
5 No. 3176 is attached as exhibit A and incorporated herein by reference.

6 4. Respondent has reviewed the nature of the charges alleged in the
7 Accusation and the terms and conditions set forth herein with her attorney and enters into this
8 stipulation with the advice of her attorney.

9 5. Respondent is represented in this proceeding by attorney Zachary
10 Wechsler, whose address is 6060 Center Drive, Ste. 825, Los Angeles, CA 90045.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, fully discussed with counsel, and
13 understands the charges and allegations in Accusation No. 3176. Respondent has also carefully
14 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
15 Disciplinary Order.

16 7. Respondent is fully aware of each of her legal rights and that, but for this
17 stipulation, she would be entitled: 1) to a hearing on the charges and allegations in the
18 Accusation; 2) to be represented by counsel, at her own expense, in all proceedings in this
19 matter; 3) to confront and cross-examine the witnesses testifying against her; 4) to present
20 evidence and call witnesses on her own behalf, or to herself testify, and to the issuance of
21 subpoenas to compel the attendance of witnesses and the production of documents. Respondent
22 is aware of her right to contest the charges and allegations and any other rights which may be
23 accorded to her pursuant to the California Administrative Procedure Act (Government Code §
24 11500 *et seq.*), as well as her right to petition for reconsideration or to appeal to the Superior
25 Court or any other court of review.

26 8. Respondent hereby freely, voluntarily, and knowingly waives and gives up
27 each and every right set forth above including, but not limited to, the right to a hearing on the
28 charges and allegations contained in Accusation No. 3176, and the right to reconsideration and

1 judicial review in order to enter into this stipulation. Respondent understands that, in signing this
2 stipulation rather than contesting the Accusation, she is enabling the Board to impose
3 disciplinary action upon her license without further process.

4 CULPABILITY

5 9. For the purpose of settlement and compromise of the instant proceeding
6 before the Board only, or any other professional licensing agency in the State of California,
7 Respondent admits that the charges and allegations in the Accusation with the exception of
8 paragraphs 10 and 12 are true.

9 10. Respondent further stipulates that the Board has jurisdiction to impose a
10 public reprimand upon her license to practice as a licensed pharmacist pursuant to section 495 of
11 the Business and Professions Code.

12 11. In consideration for entering into this stipulated agreement ("Agreement"),
13 Respondent hereby waives any right to challenge the legal effect of this Agreement, by way of
14 petition for reconsideration, petition for writ of mandamus, appeal, or otherwise, and further
15 waives any other legal claim or defense, which she may have asserted, including, but not limited
16 to, any time based claim such as laches, in the event it is necessary to calendar an administrative
17 hearing based on any part of Accusation No. 3176.

18 ORDER

19 12. Based on all of the recitals and stipulations herein, it is stipulated and
20 agreed that Pharmacist License No. 58088 heretofore issued to Respondent shall, by way of letter
21 from the Executive Officer, be publicly reprimanded. Said letter of public reprimand will issue
22 as set forth herein above and shall be in the same form as the letter attached hereto as Exhibit
23 "B."

24 CONTINGENCY

25 13. This stipulation shall be subject to approval by the Board of Pharmacy.
26 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
27 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
28 without notice to or participation by Respondent or her counsel. By signing the stipulation,

1 Respondent understands and agrees that she may not withdraw her agreement or seek to rescind
2 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
3 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
4 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
5 between the parties, and the Board shall not be disqualified from further action by having
6 considered this matter.


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

10 15. Each term contained herein is a separate and distinct term and condition.
11 If any term and/or condition of this Agreement, or any application thereof, is declared
12 unenforceable in whole, in part, or to any extent, the remainder of this Agreement, and all other
13 applications thereof, shall not be affected. Each term and condition of this Agreement shall
14 separately be valid and enforceable to the fullest extent permitted by law.

15 ACCEPTANCE

16 I have carefully read the above Stipulated Settlement. I understand the stipulation
17 and the effect it will have on my pharmacist license. I enter into this Stipulated Settlement and
18 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
19 Decision and Order of the Board of Pharmacy.

20 DATED: 7-22-09


KELLIE QUINN FLOOD
Respondent

22 I have read and fully discussed with Respondent Kellie Quinn Flood the terms
23 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
24 Order. I approve its form and content.

25 DATED: 7-30-2009


ZACHARY WECHSLER
Attorney for Respondent

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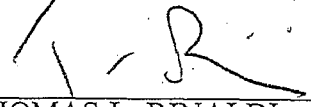
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ENDORSEMENT

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

DATED: 8/3/09

EDMUND G. BROWN, Attorney General
of the State of California



THOMAS L. RINALDI
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SF2005400477
60441308.wpd

Exhibit A
Accusation No. 3176

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 THOMAS L. RINALDI, State Bar No. 206911
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2541
Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3176

11 KELLIE QUINN FLOOD
12 3905 State Street 7-243
Santa Barbara, CA 93105

ACCUSATION

13 Pharmacist License No. RPH 58088

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

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

20 2. On or about January 26, 2006, the Board of Pharmacy issued Pharmacy
21 License No. RPH 58088 to Kellie Quinn Flood (Respondent). The License was in full force and
22 effect at all times relevant to the charges brought herein and will expire on August 31, 2009
23 unless renewed.

24 JURISDICTION

25 3. This Accusation is brought before the Board of Pharmacy (Board),
26 Department of Consumer Affairs, under the authority of the following laws. All section
27 references are to the Business and Professions Code unless otherwise indicated.

28 4. Section 4300 permits the Board to take disciplinary action to suspend or

1 revoke a license issued by the Board.

2 5. Section 4301 states, in pertinent part:

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

7 “(h) The administering to oneself, of any controlled substance, or the use of any
8 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
9 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
10 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
11 the public the practice authorized by the license.

12
13 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
14 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
15 applicable federal and state laws and regulations governing pharmacy, including regulations
16 established by the board.

17 6. Section 4060 of the Code states:

18 “No person shall possess any controlled substance, except that furnished to a
19 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
20 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a
21 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section
22 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to
23 Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause
24 (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall
25 not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
26 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
27 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
28 labeled with the name and address of the supplier or producer.

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

4 7. Section 118, subdivision (b) states:

5 "The suspension, expiration, or forfeiture by operation of law of a license issued
6 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
7 by order of a court of law, or its surrender without the written consent of the board, shall not,
8 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
9 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
10 ground provided by law or to enter an order suspending or revoking the license or otherwise
11 taking disciplinary action against the licensee on any such ground."

12 8. Business and Professions Code section 125.3, subdivision (a), states, in
13 pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a
14 disciplinary proceeding before any board within the department . . . the board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations
16 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case."

18 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

19 9. Marijuana is a hallucinogenic Schedule I controlled substance as defined
20 in Health and Safety Code section 11054(d)(13) and a dangerous drug according to Business and
21 Professions Code section 4022.

22 BACKGROUND

23 10. From January 27, 2006 through October 13, 2006, Respondent was
24 employed as a staff pharmacist at Santa Barbara Cottage Hospital (SBCH.) On or around
25 September 11, 2006, the pharmacist-in-charge of SBCH was notified by Respondent that she was
26 in inpatient at Cottage Hospital and that she would not be able to work her scheduled shifts.
27 Upon her return to work, Respondent was required to take a fitness for duty examination which
28 included a drug screen. Respondent submitted to the drug screen which revealed the presence of

1 marijuana in her system. The positive drug screen was a violation of the SBCH's Drug and
2 Alcohol Abuse Policy and she was terminated from her position on October 13, 2006.

3 FIRST CAUSE FOR DISCIPLINE

4 (Self Administration of Controlled Substance)

5 11. Respondent is subject to disciplinary action under sections 4300 and
6 4301(h) in that on or around September 20, 2006, she administered a controlled substance to
7 herself without a valid prescription as further described in paragraph 10.

8 SECOND CAUSE FOR DISCIPLINE

9 (Possession of Controlled Substance)

10 12. Respondent is subject to disciplinary action pursuant to sections 4300 and
11 4301(o) on the grounds of unprofessional conduct for violating section 4060 in that on or around
12 September 20, 2006, she was in possession of a controlled substance without a valid prescription
13 a further described in paragraph no. 10.

14 PRAYER

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

17 1. Revoking or suspending Original Pharmacist License Number RPH
18 58088, issued to Kellie Quinn Flood;

19 2. Ordering Respondent to pay the Board of Pharmacy the reasonable costs of
20 the investigation and enforcement of this case, pursuant to Business and Professions Code
21 section 125.3;

22 ///

23 ///

24 ///

25 ///

26 ///

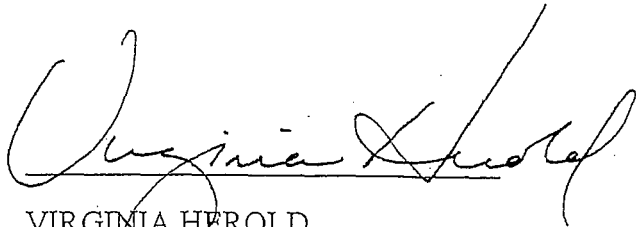
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3. Taking such other and further action as deemed necessary and proper.

DATED: 7/17/08



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

Complainant:

60309053.wpd
LA2008600818

Exhibit B
Public Reprimand



California State Board of Pharmacy

1625 N. Market Blvd, Suite N219, Sacramento, CA 95834
Phone (916) 574-7900
Fax (916) 574-8618
www.pharmacy.ca.gov

STATE AND CONSUMER AFFAIRS AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

October 26, 2009

Public Reprimand

Kellie Quinn Flood
PMB 138 2220
Coit Road 480
Plano TX 75075

RE: Public Reprimand, In the Matter of the Accusation Against:
Kellie Quinn Flood, RPH 58088
Board of Pharmacy Case No. 3176

Ms. Flood:

On July 17, 2008, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed an Accusation against your license to practice pharmacy alleging unprofessional conduct under Business and Professions Code section 4301, subdivisions (h) and (o) regarding events which occurred on or about September 11, 2006, wherein you are alleged to have consumed a controlled substance, marijuana, without a valid prescription.

Taking into consideration the state of the evidence, the fact that this is a first time offense, and that there are other mitigating circumstances, the board has decided that a letter of reprimand is the appropriate resolution for this case.

Accordingly, pursuant to the authority provided under section 495 of the Business and Profession Code, and in resolution of this matter, the Board of Pharmacy hereby issues this letter of public reprimand.

Sincerely,

A handwritten signature in black ink that reads "Virginia Herold". The signature is written in a cursive style and is positioned above a horizontal line.

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