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

In the Matter of the Petition to Revoke
Probation Against:

**MARY JANE GUY
P.O. Box 1633
Oceanside, CA 92051**

**Pharmacy Technician License No.
TCH 44416**

Respondent.

Case No. 3458

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 27, 2009, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Petition to Revoke Probation No. 3458 against Mary Jane Guy (Respondent) before the Board of Pharmacy.

2. On or about May 15, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 44416 to Respondent. The License was in full force and effect at all times relevant to the charges brought herein, and will expire on October 31, 2010, if not renewed.

3. On or about November 3, 2009, Juana F. Mejia, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke Probation No.

1 3458, a Statement to Respondent, two copies of a form Notice of Defense, a Request for
2 Discovery, and copies of Government Code sections 11507.5, 11507.6, and 11507.7 to
3 Respondent's address of record with the Board: P.O. Box 1633, Oceanside, CA 92051. Copies of
4 the Petition to Revoke Probation are attached as exhibit A, and are incorporated herein by
5 reference.

6 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
7 provisions of Government Code section 11505, subdivision (c).

8 5. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
10 notice of defense, and the notice shall be deemed a specific denial of all parts of the Petition to
11 Revoke Probation not expressly admitted. Failure to file a notice of defense shall constitute a
12 waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a
13 hearing.

14 6. Respondent failed to file a Notice of Defense within 15 days after service upon her of
15 the Petition to Revoke Probation, and therefore waived her right to a hearing on the merits of
16 Petition to Revoke Probation No.3458.

17 7. California Government Code section 11520 states, in pertinent part:

18 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
19 agency may take action based upon the respondent's express admissions or upon other evidence
20 and affidavits may be used as evidence without any notice to respondent.

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 respondent is in default. The Board will take action without further hearing and, based on the
23 evidence on file herein, finds that the allegations in Petition to Revoke Probation No. 3458 are
24 true.

25 DETERMINATION OF ISSUES

26 1. Based on the foregoing findings of fact, Respondent Mary Jane Guy has subjected her
27 Pharmacy Technician License No. TCH 44416 to discipline.

28 2. A copy of the Petition to Revoke Probation is attached.

1 3. The agency has jurisdiction to adjudicate this case by default.

2 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
3 License based upon the following violations alleged in the Petition to Revoke Probation:

4 a. Respondent's probation is subject to revocation in that Respondent submitted one
5 quarterly report in March 2008, and thereafter failed to submit quarterly reports in violation of
6 Probation Condition 3;

7 b. Respondent's probation is subject to revocation because Respondent made a single
8 payment towards Board costs in March 2008 in the amount of \$200.00. Respondent still owes a
9 balance of \$985.00 and has not made any payments since March 2008, in violation of Probation
10 Condition 7;

11 c. Respondent's probation is subject to revocation because she failed to notify the Board
12 of her May 29, 2009, termination from her employment at Rancho Park Pharmacy. Respondent
13 further failed to notify the Board within 10 days of her change of residence to Alabama, on July
14 31, 2009, in violation of Probation Condition 10;

15 d. Respondent's probation is subject to revocation because she failed to provide any
16 documentation of attendance in a board-approved recognized and established substance abuse
17 recovery support group in California, in violation of Probation Condition 12;

18 e. Respondent's probation is subject to revocation because she failed to submit for
19 approval by the Board a work site monitor. No quarterly reports by a work site monitor were
20 submitted, in violation of Probation Condition 14;

21 f. Respondent's probation is subject to revocation because she left California on July
22 15, 2009 and traveled to Idaho for two weeks, then moved to Alabama without any prior
23 notification to the Board, in violation of Probation Condition 15.

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ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 44416, heretofore issued to Respondent Mary Jane Guy, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on May 28, 2010.

It is so ORDERED April 28, 2010.



KENNETH H. SCHELL, BOARD PRESIDENT
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

Attachment: Exhibit A: Petition to Revoke Probation No. 3458

Exhibit A
Petition to Revoke Probation No. 3458

1 EDMUND G. BROWN JR.
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 SHERRY L. LEDAKIS
Deputy Attorney General
4 State Bar No. 131767
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5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

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

Case No. 3458

13 **MARY JANE GUY**
14 **P.O. Box 1633**
Oceanside, CA 92051

PETITION TO REVOKE PROBATION

15 **Pharmacy Technician License No.**
16 **TCH 44416**

17 Respondent.

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, Department of Consumer
22 Affairs.

23 2. On or about May 15, 2003, the Board of Pharmacy issued Pharmacy Technician
24 License Number TCH 44416 to Mary Jane Guy (Respondent). The Pharmacy Technician
25 License was in effect at all times relevant to the charges brought herein and will expire on
26 October 31, 2010, unless renewed.

27 3. In a prior disciplinary action entitled "*In the Matter of the Accusation Against Mary*
28 *Jane Guy*," Case No. 3058, the Board of Pharmacy issued a decision, effective October 24, 2007,

1 in which Respondent's Pharmacy Technician License was revoked. However, the revocation was
2 stayed and Respondent's license was placed on probation for a period of five (5) years with
3 certain terms and conditions.

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
7 references are to the Business and Professions Code unless otherwise indicated.

8 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
9 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
10 disciplinary action during the period within which the license may be renewed, restored, reissued
11 or reinstated.

12 6. Section 4300, subdivision (a) of the Code states "Every license issued may be
13 suspended or revoked."

14 FIRST CAUSE TO REVOKE PROBATION

15 (Reporting to the Board)

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

18 Respondent shall report to the board quarterly, on a schedule as directed by the
19 board or its designee. The report shall be made either in person or in writing, as
20 directed. Respondent shall state under penalty of perjury whether there has been
21 compliance with all the terms and conditions of probation. If the final probation
report is not made as directed, probation shall be automatically extended until such
time as the final report is made and accepted by the board.

22 8. Respondent's probation is subject to revocation in that Respondent submitted one
23 quarterly report in March 2008, and thereafter failed to submit quarterly reports in violation of
24 Probation Condition 3, referenced above.

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1 SECOND CAUSE TO REVOKE PROBATION

2 (Reimbursement of Board Costs)

3 9. At all times after the effective date of Respondent's probation. Probation Condition 7
4 stated:

5 Respondent shall pay to the board its costs of investigation and prosecution in
6 the amount of \$1,185.00. Respondent shall make monthly payments of \$75 or more
per month until the costs have been paid in full.

7 If respondent fails to pay the costs as specified by the board and on the date(s)
8 determined by the board, the board shall, without affording respondent notice and the
opportunity to be heard, revoke probation and carry out the disciplinary order that
9 was stayed. The filing of bankruptcy by respondent shall not relieve respondent of
her responsibility to reimburse the board its costs of investigation and prosecution.

10 10. Respondent's probation is subject to revocation because Respondent made a single
11 payment towards Board costs in March 2008 in the amount of \$200. Respondent still owes a
12 balance of \$985.00 and has not made any payments since March 2008, in violation of Probation
13 Condition 7, referenced above.

14 THIRD CAUSE TO REVOKE PROBATION

15 (Notification of Employment/Mailing Address Change)

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

18 Respondent shall notify the board in writing within 10 days of any change of
19 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.
20 Respondent shall notify the board in writing within 10 days of a change in name,
mailing address or phone number.

21 12. Respondent's probation is subject to revocation because she failed to notify the Board
22 of her May 29, 2009, termination from her employment at Rancho Park Pharmacy. Respondent
23 further failed to notify the Board within 10 days of her change of residence to Alabama, on July
24 31, 2009, in violation of Probation Condition 10, referenced above.

25 FOURTH CAUSE TO REVOKE PROBATION

26 (Attend Substance Abuse Recovery Relapse Prevention and Support Groups)

27 13. At all times after the effective date of Respondent's probation, Probation Condition
28 12 stated:

1 Respondent shall continue regular attendance at a board-approved recognized
and established substance abuse recovery support group in California, (e.g.,
2 Alcoholics Anonymous, Narcotics Anonymous, Cocaine Anonymous, etc.).

3 Respondent must attend at least one group meeting per week. Respondent shall
continue regular attendance and submit signed and dated documentation confirming
4 attendance with each quarterly report for the duration of probation.

5 14. Respondent's probation is subject to revocation because she failed to provide any
6 documentation of attendance in a board-approved recognized and established substance abuse
7 recovery support group in California, in violation of Probation Condition 12, referenced above.

8 **FIFTH CAUSE TO REVOKE PROBATION**

9 **(Worksite Monitor)**

10 15. At all times after the effective date of Respondent's probation, Probation Condition
11 14 stated:

12 Within 10 days of the effective date of this decision, respondent shall identify a
work site monitor, for prior approval by the board, who shall be responsible for
13 supervising respondent during working hours. The work site monitor shall report to
the board quarterly. Should the designated work site monitor determine at any time
14 during the probationary period that respondent has not maintained sobriety, he or she
shall notify the board immediately, either orally or in writing as directed. Should
15 respondent change employment, a new work site monitor must be designated, for
prior approval by the board, within 10 days of commencing new employment.
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17 16. Respondent's probation is subject to revocation because she failed to submit for
18 approval by the Board a work site monitor. No quarterly reports by a work site monitor were
19 submitted, in violation of Probation Condition 14, referenced above.

20 **SIXTH CAUSE TO REVOKE PROBATION**

21 **(Notification of Departure)**

22 17. At all times after the effective date of Respondent's probation Condition 15 stated:

23 If respondent leaves the geographic area for a period greater than 24 hours,
respondent shall notify the board verbally and in writing of the dates of departure and
24 return, prior to leaving.

25 18. Respondent's probation is subject to revocation because she left California on July
26 15, 2009 and traveled to Idaho for two weeks, then moved to Alabama without any prior
27 notification to the Board in violation of Probation Condition 15, referenced above.

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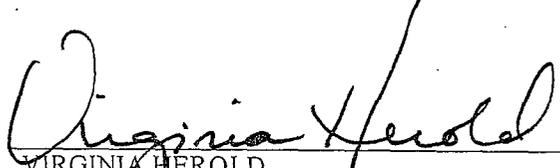
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PRAYER

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

1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3058 and imposing the disciplinary order that was stayed thereby revoking Pharmacy Technician License No. TCH 44416 issued to Mary Jane Guy;
2. Revoking or suspending Pharmacy Technician License No. TCH 44416, issued to Mary Jane Guy;
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/27/09



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

SD2009804694