



**California State Board of Pharmacy**  
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RECEIVED  
 BOARD SECRETARY  
 STATE AND CONSUMER SERVICES AGENCY  
 DEPARTMENT OF CONSUMER AFFAIRS  
 GOVERNOR EDMUND G. BROWN JR.  
 2013 AUG 30 PM 3:43

**APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE**

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>John Nelson</u>	Case No. <u>AC 3915</u>
Address of Record: <u>14800 Pacheco Pass Hwy</u> <u>Hollister, CA 95023</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC 3915, I hereby request to surrender my pharmacy technician license; License No. 75075. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pharmacy technician license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

Applicant's Signature  
Virginia Hurd  
 Executive Officer's Approval

8-28-13  
 Date  
9/3/13  
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

**JOHN ROBERT NELSON  
14800 Pacheco Pass Hwy  
Hollister, CA 95023**

**Pharmacy Technician Registration License No.  
TCH 75675**

Respondent.

Case No. 3915

OAH No. 2013010374

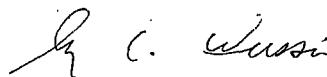
**DECISION AND ORDER**

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 August 21, 2013.

It is so ORDERED on July 22, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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*Attorneys for Complainant*

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

10  
11 In the Matter of the Accusation Against:  
12 **JOHN ROBERT NELSON**  
10205 Plainview Ave., #6  
13 Tujunga, CA 91042  
14 14800 Pacheco Pass Hwy  
Hollister, CA 95023  
15 Pharmacy Technician Registration No. TCH  
75675  
16  
17 Respondent.

Case No. 3915

OAH No. 2013010374

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

18  
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,  
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will  
22 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
25 She brought this action solely in her official capacity and is represented in this matter by Kamala  
26 D. Harris, Attorney General of the State of California, by Char Sachson, Deputy Attorney  
27 General.  
28

1           2.     Respondent John Robert Nelson (Respondent) is representing himself in this  
2 proceeding and has chosen not to exercise his right to be represented by counsel.

3           3.     On or about April 21, 2007, the Board of Pharmacy issued Pharmacy Technician  
4 Registration No. TCH 75675 to John Robert Nelson (Respondent). The Pharmacy Technician  
5 Registration was in full force and effect at all times relevant to the charges brought in Accusation  
6 No. 3915 and will expire on January 31, 2013, unless renewed.

7   JURISDICTION

8           4.     Accusation No. 3915 was filed before the Board of Pharmacy (Board), Department  
9 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
10 statutorily required documents were properly served on Respondent on August 23, 2012.

11 Respondent timely filed his Notice of Defense contesting the Accusation.

12          5.     A copy of Accusation No. 3915 is attached as exhibit A and incorporated herein by  
13 reference.

14   ADVISEMENT AND WAIVERS

15          6.     Respondent has carefully read, and understands the charges and allegations in  
16 Accusation No. 3915. Respondent has also carefully read, and understands the effects of this  
17 Stipulated Settlement and Disciplinary Order.

18          7.     Respondent is fully aware of his legal rights in this matter, including the right to a  
19 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
20 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
21 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
22 the attendance of witnesses and the production of documents; the right to reconsideration and  
23 court review of an adverse decision; and all other rights accorded by the California  
24 Administrative Procedure Act and other applicable laws.

25          8.     Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
26 every right set forth above.

27        ///

28        ///

1 CULPABILITY

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 3915.

4 10. Respondent agrees that his Pharmacy Technician Registration is subject to discipline  
5 and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order  
6 below.

7 CIRCUMSTANCES IN MITIGATION

8 11. Respondent John Robert Nelson has never been the subject of any disciplinary action.  
9 He is admitting responsibility at an early stage in the proceedings.

10 CONTINGENCY

11 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
12 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may  
13 communicate directly with the Board regarding this stipulation and settlement, without notice to  
14 or participation by Respondent. By signing the stipulation, Respondent understands and agrees  
15 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the  
16 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and  
17 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for  
18 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall  
19 not be disqualified from further action by having considered this matter.

20 13. The parties understand and agree that facsimile copies of this Stipulated Settlement  
21 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
22 effect as the originals.

23 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
24 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
25 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
26 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
27 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
28 writing executed by an authorized representative of each of the parties.

1 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or formal proceeding, issue and enter the following  
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 75675 issued  
6 to Respondent John Robert Nelson (Respondent) is revoked. However, the revocation is stayed  
7 and Respondent is placed on probation for five (5) years on the following terms and conditions.

8 **1. Certification Prior to Resuming Work**

9 Respondent shall be automatically suspended from working as a pharmacy technician until  
10 he is certified as defined by Business and Professions Code section 4202(a)(4) and provides  
11 satisfactory proof of certification to the board. Respondent shall not resume working as a  
12 pharmacy technician until notified by the board. Failure to achieve certification within one (1)  
13 year shall be considered a violation of probation. Respondent shall not resume working as a  
14 pharmacy technician until notified by the board.

15 During suspension, respondent shall not enter any pharmacy area or any portion of any  
16 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
17 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
18 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
19 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
20 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
21 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
22 substances. Respondent shall not resume work until notified by the board.

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

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

27 **2. Obey All Laws**

28 Respondent shall obey all state and federal laws and regulations.

1 Respondent shall report any of the following occurrences to the board, in writing, within  
2 seventy-two (72) hours of such occurrence:

- 3  an arrest or issuance of a criminal complaint for violation of any provision of the  
4 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
5 substances laws
- 6  a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
7 criminal complaint, information or indictment
- 8  a conviction of any crime
- 9  discipline, citation, or other administrative action filed by any state or federal agency  
10 which involves respondent's pharmacy technician license or which is related to the  
11 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,  
12 or charging for any drug, device or controlled substance.

13 Failure to timely report any such occurrence shall be considered a violation of probation.

### 14 3. Report to the Board

15 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
16 designee. The report shall be made either in person or in writing, as directed. Among other  
17 requirements, respondent shall state in each report under penalty of perjury whether there has  
18 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
19 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
20 in submission of reports as directed may be added to the total period of probation. Moreover, if  
21 the final probation report is not made as directed, probation shall be automatically extended until  
22 such time as the final report is made and accepted by the board.

### 23 4. Interview with the Board

24 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
25 with the board or its designee, at such intervals and locations as are determined by the board or its  
26 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
27 or failure to appear at two (2) or more scheduled interviews with the board or its designee during  
28 the period of probation, shall be considered a violation of probation.

1           **5. Cooperate with Board Staff**

2           Respondent shall cooperate with the board's inspection program and with the board's  
3 monitoring and investigation of respondent's compliance with the terms and conditions of his  
4 probation. Failure to cooperate shall be considered a violation of probation.

5           **6. Notice to Employers**

6           During the period of probation, respondent shall notify all present and prospective  
7 employers of the decision in case number 3915 and the terms, conditions and restrictions imposed  
8 on respondent by the decision, as follows:

9           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
10 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
12 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
13 individual(s) has/have read the decision in case number 3915 and the terms and conditions  
14 imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or  
15 supervisor(s) submit timely acknowledgement(s) to the board.

16           If respondent works for or is employed by or through a pharmacy employment service,  
17 respondent must notify his direct supervisor, pharmacist-in-charge and owner at every pharmacy  
18 of the terms and conditions of the decision in case number 3915 in advance of the respondent  
19 commencing work at each pharmacy. A record of this notification must be provided to the board  
20 upon request.

21           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
22 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
23 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
24 report to the board in writing acknowledging that he has read the decision in case number 3915  
25 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
26 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

27           Failure to timely notify present or prospective employer(s) or to cause that/those  
28 employer(s) to submit timely acknowledgements to the board shall be considered a violation of



1 probation.

2 "Employment" within the meaning of this provision shall include any full-time,  
3 part-time, temporary or relief service or pharmacy management service as a pharmacy  
4 technician or in any position for which a pharmacy technician license is a requirement  
5 or criterion for employment, whether the respondent is considered an employee,  
6 independent contractor or volunteer.

7 **7. Reimbursement of Board Costs**

8 As a condition precedent to successful completion of probation, respondent shall pay to the  
9 board its costs of investigation and prosecution in the amount of \$2,380.00. Respondent shall  
10 make said payments as follows: 35 monthly payments \$68.00, beginning on the effective date of  
11 the decision. There shall be no deviation from this schedule absent prior written approval by the  
12 board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a  
13 violation of probation.

14 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
15 reimburse the board its costs of investigation and prosecution.

16 **8. Probation Monitoring Costs**

17 Respondent shall pay any costs associated with probation monitoring as determined by the  
18 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
19 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
20 be considered a violation of probation.

21 **9. Status of License**

22 Respondent shall, at all times while on probation, maintain an active, current pharmacy  
23 technician license with the board, including any period during which suspension or probation is  
24 tolled. Failure to maintain an active, current license shall be considered a violation of probation.

25 If respondent's pharmacy technician license expires or is cancelled by operation of law or  
26 otherwise at any time during the period of probation, including any extensions thereof due to  
27 tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all  
28 terms and conditions of this probation not previously satisfied.

1           **10. License Surrender While on Probation/Suspension**

2           Following the effective date of this decision, should respondent cease work due to  
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
4 respondent may tender his pharmacy technician license to the board for surrender. The board or  
5 its designee shall have the discretion whether to grant the request for surrender or take any other  
6 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
7 license, respondent will no longer be subject to the terms and conditions of probation. This  
8 surrender constitutes a record of discipline and shall become a part of the respondent's license  
9 history with the board.

10           Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician  
11 license to the board within ten (10) days of notification by the board that the surrender is  
12 accepted. Respondent may not reapply for any license, permit, or registration from the board for  
13 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
14 applicable to the license sought as of the date the application for that license is submitted to the  
15 board.

16           **11. Notification of a Change in Name, Residence Address, Mailing Address or**  
17 **Employment**

18           Respondent shall notify the board in writing within ten (10) days of any change of  
19 employment. Said notification shall include the reasons for leaving, the address of the new  
20 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
21 shall further notify the board in writing within ten (10) days of a change in name, residence  
22 address and mailing address, or phone number.

23           Failure to timely notify the board of any change in employer(s), name(s), address(es), or  
24 phone number(s) shall be considered a violation of probation.

25           **12. Tolling of Probation**

26           Except during periods of suspension, respondent shall, at all times while on probation, be  
27 employed as a pharmacy technician in California for a minimum of 10 hours per calendar month.  
28 Any month during which this minimum is not met shall toll the period of probation, i.e., the

1 period of probation shall be extended by one month for each month during which this minimum is  
2 not met. During any such period of tolling of probation, respondent must nonetheless comply  
3 with all terms and conditions of probation.

4 Should respondent, regardless of residency, for any reason (including vacation) cease  
5 working as a pharmacy technician for a minimum of 10 hours per calendar month in California,  
6 respondent must notify the board in writing within ten (10) days of cessation of work and must  
7 further notify the board in writing within ten (10) days of the resumption of the work. Any  
8 failure to provide such notification(s) shall be considered a violation of probation.

9 It is a violation of probation for respondent's probation to remain tolled pursuant to the  
10 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
11 exceeding thirty-six (36) months.

12 "Cessation of work" means calendar month during which respondent is not  
13 working for at least 10 hours as a pharmacy technician, as defined in Business and  
14 Professions Code section 4115. "Resumption of work" means any calendar month  
15 during which respondent is working as a pharmacy technician for at least 10 hours as  
16 a pharmacy technician as defined by Business and Professions Code section 4115.

### 17 **13. Violation of Probation**

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

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

1 extended until the petition to revoke probation or accusation is heard and decided.

2 **14. Completion of Probation**

3 Upon written notice by the board indicating successful completion of probation,  
4 respondent's pharmacy technician license will be fully restored.

5 **15. No Ownership of Licensed Premises**

6 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
7 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
8 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
9 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
10 days following the effective date of this decision and shall immediately thereafter provide written  
11 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
12 documentation thereof shall be considered a violation of probation.

13 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

14 Should Respondent test positive on any random drug screening (per condition 17 below), he  
15 shall immediately begin regular attendance at a recognized and established substance abuse  
16 recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.)  
17 which has been approved by the board or its designee. Respondent must attend at least one group  
18 meeting per week unless otherwise directed by the board or its designee. Respondent shall  
19 continue regular attendance and submit signed and dated documentation confirming attendance  
20 with each quarterly report for the duration of probation. Failure to attend or submit  
21 documentation thereof shall be considered a violation of probation.

22 **17. Random Drug Screening**

23 Respondent, at his own expense, shall participate in random testing, including but not  
24 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
25 screening program as directed by the board or its designee. Respondent may be required to  
26 participate in testing for the entire probation period and the frequency of testing will be  
27 determined by the board or its designee. At all times respondent shall fully cooperate with the  
28 board or its designee, and shall, when directed, submit to such tests and samples for the detection

1 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its  
2 designee may direct. Failure to timely submit to testing as directed shall be considered a violation  
3 of probation. Upon request of the board or its designee, respondent shall provide documentation  
4 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is  
5 a necessary part of the treatment of the respondent. Failure to timely provide such documentation  
6 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any  
7 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment  
8 shall be considered a violation of probation and shall result in the automatic suspension of work  
9 by respondent. Respondent may not resume work as a pharmacy technician until notified by the  
10 board in writing.

11       During suspension, respondent shall not enter any pharmacy area or any portion of or any  
12 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
13 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
14 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
15 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
16 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
17 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
18 substances. Respondent shall not resume work until notified by the board.

19       Respondent shall not direct, control or perform any aspect of the practice of pharmacy.  
20 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
21 licensed premises in which he holds an interest at the time this decision becomes effective unless  
22 otherwise specified in this order.

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

24       **18. Abstain from Drugs and Alcohol Use**

25       Respondent shall completely abstain from the possession or use of alcohol, controlled  
26 substances, dangerous drugs and their associated paraphernalia except when the drugs are  
27 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon  
28 request of the board or its designee, respondent shall provide documentation from the licensed

1 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the  
2 treatment of the respondent. Failure to timely provide such documentation shall be considered a  
3 violation of probation. Respondent shall ensure that he is not in the same physical location as  
4 individuals who are using illicit substances even if respondent is not personally ingesting the  
5 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
6 not supported by the documentation timely provided, and/or any physical proximity to persons  
7 using illicit substances, shall be considered a violation of probation.

8 **19. Prescription Coordination and Monitoring of Prescription Use**

9 Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
10 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
11 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
12 history with the use of alcohol, controlled substances, and/or dangerous drugs, and who will  
13 coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled  
14 substances or mood-altering drugs. The approved practitioner shall be provided with a copy of  
15 the board's [accusation or petition to revoke probation] and decision. A record of this notification  
16 must be provided to the board upon request. Respondent shall sign a release authorizing the  
17 practitioner to communicate with the board about respondent's treatment(s). The coordinating  
18 physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a  
19 quarterly basis for the duration of probation regarding respondent's compliance with this  
20 condition. If any substances considered addictive have been prescribed, the report shall identify a  
21 program for the time limited use of any such substances. The board may require that the single  
22 coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in  
23 addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any  
24 reason, cease supervision by the approved practitioner, respondent shall notify the board  
25 immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement  
26 physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the  
27 board or its designee for its prior approval. Failure to timely submit the selected practitioner or  
28 replacement practitioner to the board for approval, or to ensure the required reporting thereby on

1 the quarterly reports, shall be considered a violation of probation.

2 If at any time an approved practitioner determines that respondent is unable to practice  
3 safely or independently as a pharmacist, the practitioner shall notify the board immediately by  
4 telephone and follow up by written letter within three (3) working days. Upon notification from  
5 the board or its designee of this determination, respondent shall be automatically suspended and  
6 shall not resume practice until notified by the board that practice may be resumed.

7 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
8 or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any  
9 other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs  
10 and devices or controlled substances are maintained. Respondent shall not do any act involving  
11 drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall  
12 respondent manage, administer, or assist any licensee of the board. Respondent shall not direct,  
13 control or perform any aspect of the practice of pharmacy. Respondent shall not have access to or  
14 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
15 substances. Respondent shall not resume work until notified by the board.

16 Failure to comply with any such suspension shall be considered a violation of probation.

17 **20. Community Services Program**

18 Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
19 board or its designee, for prior approval, a community service program in which respondent shall  
20 provide free health-care related services on a regular basis to a community or charitable facility or  
21 agency for at least 30 hours per year for the first three years of probation. Within thirty (30) days  
22 of board approval thereof, respondent shall submit documentation to the board demonstrating  
23 commencement of the community service program. A record of this notification must be  
24 provided to the board upon request. Respondent shall report on progress with the community  
25 service program in the quarterly reports. Failure to timely submit, commence, or comply with the  
26 program shall be considered a violation of probation.

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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 04/18/17

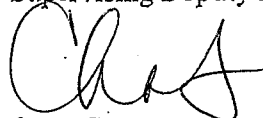
  
\_\_\_\_\_  
JOHN ROBERT NELSON  
Respondent

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: 4/29/13

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General

  
CHAR SACHSON  
Deputy Attorney General  
*Attorneys for Complainant*

SF2012401430  
40680586



**Exhibit A**

**Accusation No. 3915**

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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. 3915

11 **JOHN ROBERT NELSON**  
12 **10205 Plainview Ave., #6**  
13 **Tujunga, CA 91042**

**A C C U S A T I O N**

14 **Pharmacy Technician Registration No. TCH**  
15 **75675**

Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about April 21, 2007, the Board of Pharmacy (Board) issued Pharmacy  
22 Technician Registration No. TCH 75675 to John Robert Nelson (Respondent). The Pharmacy  
23 Technician Registration was in full force and effect at all times relevant to the charges brought  
24 herein and expires on January 31, 2013, unless renewed.

25 **JURISDICTION**

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

28 ///

STATUTORY PROVISIONS

1  
2       4.    Section 118, subdivision (b) provides, in pertinent part that the expiration of a license  
3 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
4 within which the license may be renewed, restored, reissued or reinstated.

5       5.    Section 490 states, in pertinent part:

6       "(a) In addition to any other action that a board is permitted to take against a licensee, a  
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a  
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
9 or profession for which the license was issued.

10       "(b) Notwithstanding any other provision of law, a board may exercise any authority to  
11 discipline a licensee for conviction of a crime that is independent of the authority granted under  
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
13 of the business or profession for which the licensee's license was issued.

14       "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a  
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take  
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
18 made suspending the imposition of sentence, irrespective of a subsequent order under the  
19 provisions of Section 1203.4 of the Penal Code."

20       6.    Section 4300 provides in pertinent part, that every license issued by the Board is  
21 subject to discipline, including suspension or revocation.

22       7.    Section 4301 states, in pertinent part:

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

26       .....

27       "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
3 practice authorized by the license.

4 . . . .

5 "(j) The violation of any of the statutes of this state, or any other state, or of the United  
6 States regulating controlled substances and dangerous drugs.

7 . . . .

8 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
9 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
10 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
11 substances or of a violation of the statutes of this state regulating controlled substances or  
12 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
13 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
14 The board may inquire into the circumstances surrounding the commission of the crime, in order  
15 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
16 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
17 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
18 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
19 of this provision. The board may take action when the time for appeal has elapsed, or the  
20 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
21 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
22 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
23 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
24 indictment."

25 . . . .

26 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable

28 ///

1 federal and state laws and regulations governing pharmacy, including regulations established by  
2 the board or by any other state or federal regulatory agency.”

3 8. Section 4060 states, in pertinent part:

4 "No person shall possess any controlled substance, except that furnished to a person upon  
5 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
6 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
7 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
8 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
9 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
10 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052."

#### 11 REGULATORY PROVISIONS

12 9. California Code of Regulations, title 16, section 1770 states, in pertinent part:

13 "For the purpose of denial, suspension, or revocation of a personal or facility license  
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
17 licensee or registrant to perform the functions authorized by his license or registration in a manner  
18 consistent with the public health, safety, or welfare."

#### 19 CONTROLLED SUBSTANCE

20 10. "Xanax" is the brand name for Alprazolam, an anti-anxiety benzodiazepine. It is a  
21 Schedule IV controlled substance as designated by Health and Safety Code section 11057,  
22 subdivision (d)(1) and is categorized as a dangerous drug pursuant to section 4022.

#### 23 COST RECOVERY

24 10. Section 125.3 states, in pertinent part, that the Board may request the administrative  
25 law judge to direct a licensee found to have committed a violation or violations of the licensing  
26 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
27 case.

28 ///



1 While speaking to Respondent the officer detected a strong odor of an alcoholic beverage on his  
2 breath and person. He was observed to have a flushed face, red watery eyes, and his speech was  
3 slurred. When asked to step out of the vehicle, Respondent stumbled as he walked and had poor  
4 balance. When asked, Respondent admitted that he had one 24-ounce can of "Juice." He  
5 indicated that "Juice" was a type of beer with an energy drink inside. During the booking  
6 procedure, Respondent submitted to a breath test that revealed a blood alcohol level of 0.24% on  
7 the first reading and 0.23% on the second reading.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Dangerous Use of Alcohol)**

10 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), in  
11 that Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to  
12 himself, another person, or the public, as follows:

13 a. On or about July 29, 2010, Respondent was under the influence of alcohol, in a public  
14 place, and unable to provide for his safety or the safety of others, as described above in paragraph  
15 10, subparagraph (a).

16 b. On or about October 11, 2009, Respondent operated a vehicle while having  
17 approximately 0.24% of alcohol in his blood, as described above in paragraph 10, subparagraph  
18 (b).

19 c. On or about January 19, 2008, during an investigation of a traffic collision by the  
20 California Highway Patrol, Respondent was contacted. While speaking to Respondent, the  
21 officer detected a strong odor of an alcoholic beverage emitting from his breath. He had slurred  
22 speech, bloodshot, red, watery eyes, and walked with an unsteady gait. When asked, Respondent  
23 admitted that he drank one 24 ounce beer earlier that evening. While at the scene, Respondent  
24 submitted to a Preliminary Alcohol Screening Test (PAS) that revealed a blood alcohol level of  
25 0.13% on the first reading and 0.12% on the second reading. Respondent was subsequently  
26 arrested for violating Vehicle Code section 23152, subdivision (a) [driving under the influence of  
27 alcohol or drugs] and Vehicle Code Section 23152, subdivision (b) [driving while having 0.08%  
28 and more, by weight, of alcohol in his blood].

