

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

In the Matter of the Accusation Against:

Case No. 3957

CAROLYN J. KIM
6921 San Pedro Circle.
Buena Park, CA 90620
Pharmacy Technician License No. TCH 98945

Respondent.

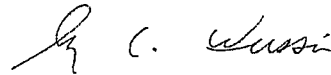
DECISION AND ORDER

The attached Stipulated Revocation of License and 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 17, 2011.

It is so ORDERED on October 18, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

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Attorney General of California
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12
13 **CAROLYN J. KIM**
6921 San Pedro Circle
Buena Park, CA 90620
14
15 **Pharmacy Technician Registration No. TCH**
98945
16
17 Respondent.

Case No. 3957

**STIPULATED REVOCATION OF
LICENSE AND ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
19 proceeding that the following matters are true:

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Linda K. Schneider, Supervising
24 Deputy Attorney General.

25 2. Carolyn J. Kim (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

27 3. On or about February 11, 2010, the Board of Pharmacy issued Pharmacy Technician
28 Registration No. TCH 98945 to Carolyn J. Kim (Respondent). The license was in full force and

1 effect at all times relevant to the charges brought in Accusation No. 3957 and expired on May 31,
2 2011.

3 JURISDICTION

4 4. Accusation No. 3957 was filed before the Board of Pharmacy (Board), Department of
5 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on June 6, 2011. Respondent
7 timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 3957 is
8 attached as Exhibit A and incorporated by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, and understands the charges and allegations in
11 Accusation No. 3957. Respondent also has carefully read, and understands the effects of this
12 Stipulated Revocation of License and Order.

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

20 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
21 every right set forth above.

22 CULPABILITY

23 8. Respondent admits the truth of each and every charge and allegation in Accusation
24 No. 3957, agrees that cause exists for discipline and hereby offers Pharmacy Technician
25 Registration No. TCH 98945 for revocation for the Board's formal acceptance.

26 9. Respondent understands that by signing this stipulation she enables the Board to issue
27 an order accepting the revocation of her license without further process.

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1 2. Respondent shall lose all rights and privileges as a pharmacy technician in California as
2 of the effective date of the Board's Decision and Order.

3 3. Respondent shall relinquish her technician license to the Board within ten (10) days of
4 the effective date of this Decision.

5 4. Respondent may not reapply or petition the Board for reinstatement of her revoked
6 technician license for three (3) years from the effective date of this decision. A condition of
7 reinstatement shall be that Respondent is certified as defined in Business and Professions Code
8 section 4202, subdivision (a)(4) and provides satisfactory proof of certification to the Board.
9 Respondent must comply with all the laws, regulations and procedures for licensure in effect at
10 the time the application or petition is filed, and all of the charges and allegations contained in
11 Accusation No. 3957 shall be deemed to be true, correct and admitted by Respondent when the
12 Board determines whether to grant or deny the application or petition.

13 5. As a condition precedent to reinstatement of her revoked technician license, Respondent
14 shall reimburse the Board for its costs of investigation and prosecution in the amount of
15 \$1,355.00. Said amount shall be paid in full prior to the reapplication or reinstatement of her
16 revoked technician license, unless otherwise ordered by the Board.

17 6. If Respondent should ever apply or reapply for a new license or certification, or petition
18 for reinstatement of a license, by any other health care licensing agency in the State of California,
19 all of the charges and allegations contained in Accusation, No. 3957 shall be deemed to be true,
20 correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
21 proceeding seeking to deny or restrict licensure.

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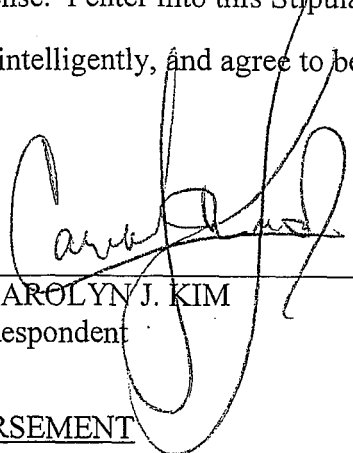
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ACCEPTANCE

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

DATED: ⁰⁷ 08/26/11


CAROLYN J. KIM
Respondent

ENDORSEMENT

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

Dated: July 13, 2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General



ADRIAN R. CONTRERAS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3957

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2 ALFREDO TERRAZAS
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3 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:	Case No. 3957
12 CAROLYN JOOHYUN KIM	
13 6921 San Pedro Circle	
14 Buena Park, CA 90620	ACCUSATION
15 Pharmacy Technician Registration	
16 No. TCH 98945	
17 Respondent.	

18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about February 11, 2010, the Board of Pharmacy issued Pharmacy Technician
24 Registration Number TCH 89845 to Carolyn JooHyun Kim (Respondent). The Pharmacy
25 Technician Registration was in full force and effect at all times relevant to the charges brought
26 herein and will expire on May 31, 2011, unless renewed.

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JURISDICTION

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

4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or revoked.”

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

STATUTORY AND REGULATORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490..

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

1 This section shall not be construed to apply to any drug diversion program
2 operated by any agency established under Division 2 (commencing with Section 500)
3 of this code, or any initiative act referred to in that division.

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13 9. Section 493 of the Code states:

14 Notwithstanding any other provision of law, in a proceeding conducted by a
15 board within the department pursuant to law to deny an application for a license or
16 to suspend or revoke a license or otherwise take disciplinary action against a
17 person who holds a license, upon the ground that the applicant or the licensee has
18 been convicted of a crime substantially related to the qualifications, functions, and
19 duties of the licensee in question, the record of conviction of the crime shall be
20 conclusive evidence of the fact that the conviction occurred, but only of that fact,
21 and the board may inquire into the circumstances surrounding the commission of
22 the crime in order to fix the degree of discipline or to determine if the conviction is
23 substantially related to the qualifications, functions, and duties of the licensee in
24 question.

25 As used in this section, "license" includes "certificate," "permit,"
26 "authority," and "registration."

27
28 10. Section 4301 of the Code states:

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:

....
(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 drug 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.

....
(l) 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

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

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
15 or of the applicable federal and state laws and regulations governing pharmacy,
16 including regulations established by the board or by any other state or federal
17 regulatory agency.

18 11. Title 16, California Code of Regulations, section 1769, states:
19

20 ...
21 (b) When considering the suspension or revocation of a facility or a personal
22 license on the ground that the licensee or the registrant has been convicted of a crime,
23 the board, in evaluating the rehabilitation of such person and his present eligibility for
24 a license will consider the following criteria:

- 25 (1) Nature and severity of the act(s) or offense(s).
- 26 (2) Total criminal record.
- 27 (3) The time that has elapsed since commission of the act(s) or offense(s).
- 28 (4) Whether the licensee has complied with all terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

12. Title 16, California Code of Regulations, section 1770, states:

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

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1 COST RECOVERY

2 13. Section 125.3 of the Code states, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case.
6

7 DRUGS

8 14. Ecstasy, or 4-methylenedioxymethamphetamine, also known as MDMA, is a
9 Schedule I controlled substance, and a stimulant with hallucinogenic properties.
10

11 FIRST CAUSE FOR DISCIPLINE

12 (August 25, 2010 Criminal Conviction for Sale of a Controlled Substance – Ecstasy – on
13 April 28, 2010

14 15. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the
15 Code in that he was convicted of a crime that is substantially related to the qualifications, duties,
16 and functions of a pharmacy technician. The circumstances are as follows:

17 16. On or about June 15, 2005, in a criminal proceeding entitled *The People of the State*
18 *of California v. Carolyn Joohyun Kim*, in the Orange County Superior Court, Newport Beach
19 Facility, Case No. 10HF0692, Respondent was convicted on her plea of guilty for violating
20 Health and Safety Code section 11378 (Possession for Sale of a Controlled Substance - Ecstasy),
21 a felony.

22 17. As a result of the above conviction, Respondent was ordered to serve 120 days in the
23 Orange County Jail, with 3 days credit for time served, violate no laws, pay various fees and
24 fines, register pursuant to Health and Safety Code section 11590, submit to DNA testing, use no
25 unauthorized drugs. Respondent was also placed on probation for three years, ordered to
26 cooperate with probation officer, not associate with persons known to use or sell illegal drugs or
27 parolees and convicted felons, not own, use or possess any type of dangerous weapon, and to
28 submit to search and seizure.

///

1 18. The circumstances surrounding Respondent's arrest are that on or about April 28,
2 2010, Laguna Police Department officers, working with Drug Enforcement Administration
3 agents, and through a confidential informant, negotiated with Respondent the sale of
4 approximately 2,000 Ecstasy pills for the amount of \$5,200. Once Respondent and the
5 confidential informant finalized the transaction, officers moved in to arrest Respondent.
6 Respondent was arrested and transported to the Orange County Jail for booking.

7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct – Violation of Statutes Regulating Controlled Substances)

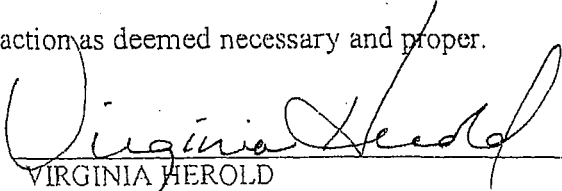
9 19. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
10 she was violated statutes of this state regulating controlled substances and dangerous drugs, as
11 described in paragraphs 14 through 17, above and incorporated here by reference.

12 PRAYER

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

- 15 1. Revoking or suspending Pharmacy Technician Registration Number TCH 89845,
16 issued to Carolyn JooHyun Kim;
- 17 2. Ordering Carolyn JooHyun Kim to pay the Board of Pharmacy the reasonable costs
18 of the investigation and enforcement of this case, pursuant to Business and Professions Code
19 section 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21 DATED: 6/2/11

22 
23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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