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

In the Matter of the Accusation Against:

Case No. 4105

NICOLE ALANA PETERS 3327 Preble Avenue Ventura, CA 93003

Pharmacy Technician License No. TCH 77539

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender 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 May 19, 2014.

It is so ORDERED on May 14, 2014.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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By

STAN C. WEISSER Board President

| 1 | Kamala D. Harris | | | |
|-----|---|--|--|--|
| 2 | Attorney General of California MARC D. GREENBAUM | | | |
| 3 | Supervising Deputy Attorney General MORGAN MALEK | | | |
| 4 | Deputy Attorney General State Bar No. 223382 | | | |
| 5 | 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 | | | |
| 6 | Telephone: (213) 897-2643 Facsimile: (213) 897-2804 | | | |
| 7 | Attorneys for Complainant | | | |
| 8 | BEFORE THE BOARD OF PHARMACY | | | |
| . 9 | DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA | | | |
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| 11 | In the Matter of the Accusation Against: Case No. 4105 | | | |
| 12 | NICOLE ALANA PETERS 3327 Preble Avenue | | | |
| 13 | Ventura, CA 93003STIPULATED SURRENDER OFPharmacy Technician License No. TCHLICENSE AND ORDER | | | |
| 14 | 77539 | | | |
| 15 | Respondent. | | | |
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| 20 | IT IS HEREBY STIPULATED AND AGREED by and between the parties in this | | | |
| 21 | proceeding that the following matters are true: | | | |
| 22 | PARTIES | | | |
| 23 | 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy. | | | |
| 24 | She brought this action solely in her official capacity and is represented in this matter by Kamala | | | |
| 25 | D. Harris, Attorney General of the State of California, by Morgan Malek, Deputy Attorney | | | |
| 26 | General, | | | |
| 20 | 2. Nicole Alana Peters (Respondent) is representing herself in this proceeding and has | | | |
| 27 | chosen not to exercise her right to be represented by counsel. | | | |
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| 1 | 3. On or about July 30, 2007, the Board of Pharmacy issued Pharmacy Technician |
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| 2 | License No. TCH 77539 to the Respondent. The Pharmacy Technician License was in full force |
| 3 | and effect at all times relevant to the charges brought in Accusation No. 4105 and will expire on |
| 4 | September 30, 2012, unless renewed. |
| 5 | JURISDICTION |
| 6 | 4. Accusation No. 4105 was filed before the Board of Pharmacy (Board), Department of |
| 7 | Consumer Affairs, and is currently pending against Respondent. The Accusation and all other |
| 8 | statutorily required documents were properly served on Respondent on March 21, 2013. |
| . 9 | Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation |
| 10 | No. 4105 is attached as Exhibit A and incorporated by reference. |
| 11 | ADVISEMENT AND WAIVERS |
| 12 | 5. Respondent has carefully read, and understands the charges and allegations in |
| 13 | Accusation No. 4105. Respondent also has carefully read, and understands the effects of this |
| 14 | Stipulated Surrender of License and Order. |
| 15 | 6. Respondent is fully aware of her legal rights in this matter, including the right to a |
| 16 | hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at |
| 17 | her own expense; the right to confront and cross-examine the witnesses against her; the right to |
| 18 | present evidence and to testify on her own behalf; the right to the issuance of subpoenas to |
| 19 | compel the attendance of witnesses and the production of documents; the right to reconsideration |
| 20 | and court review of an adverse decision; and all other rights accorded by the California |
| 21 | Administrative Procedure Act and other applicable laws. |
| 22 | 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and |
| 23 | every right set forth above. |
| 24 | CULPABILITY |
| 25 | 8. Respondent admits the truth of each and every charge and allegation in Accusation |
| 26 | No. 4105, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician |
| 27 | License No. TCH 77539 for the Board's formal acceptance. |
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9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician License without further process.

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CONTINGENCY

This stipulation shall be subject to approval by the Board of Pharmacy. Respondent 10. 4 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may 5 communicate directly with the Board regarding this stipulation and surrender, without notice to or б participation by Respondent. By signing the stipulation, Respondent understands and agrees that 7 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board 8 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, 9 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this 10 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not 11 be disqualified from further action by having considered this matter. 12

11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
License and Order, including facsimile signatures thereto, shall have the same force and effect as
the originals.

16 12. This Stipulated Surrender of License and Order is intended by the parties to be an
integrated writing representing the complete, final, and exclusive embodiment of their agreement.
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
19 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
20 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
21 executed by an authorized representative of each of the parties.

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

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<u>ORDER</u>

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 77539, issued to
 Respondent Nicole Alana Peters, is surrendered and accepted by the Board of Pharmacy.

The surrender of Respondent's Pharmacy Technician License and the acceptance of
 the surrendered license by the Board shall constitute the imposition of discipline against

Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

 Respondent shall lose all rights and privileges as a Pharmacy Technician in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
issued, her wall certificate on or before the effective date of the Decision and Order.

. 7 4. Respondent understands and agrees that if she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for 8 licensure. Respondent must comply with all the laws, regulations and procedures for licensure in 9 effect at the time the application or petition is filed, and all of the charges and allegations 10 contained in Accusation No. 4105 shall be deemed to be true, correct and admitted by Respondent 11 when the Board determines whether to grant or deny the application or petition. Respondent may 12 not apply or reapply for, or petition for reinstatement of, any license, permit, or registration from 13 the Board for three (3) years from the effective date of this Decision and Order. 14

15 5. Respondent shall pay the agency its costs of investigation and enforcement in the
amount of two thousand seven hundred ninety nine dollars and seventy five cents (\$2,799.75)
prior to issuance of a new license.

If Respondent should ever apply or reapply for a new license or certification, or
 petition for reinstatement of a license, by any other health care licensing agency in the State of
 California, all of the charges and allegations contained in Accusation, No. 4105 shall be deemed
 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
 other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

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

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| NICOLE AL | ANA PETEI | RS |

Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted

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for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

5.07.2013 Dated:

Respectfully submitted,

KAMALA D. HARRIS Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General

Stipulated Surrender of License (Case No. 4105)

MORGAN MALEK Deputy Attorney General Attorneys for Complainant

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| 1 | DATED: | |
|------|---|-------|
| 2 | NICOLE ALANA PETERS | |
| 3 | respondent , | |
| 4. | ENDORSEMENT | |
| 5 | The foregoing Stimulated Surrander of License and Order is hereby requestfully submit | tted |
| 6 | for consideration by the Board of Pharmacy of the Department of Consumer Affairs | |
| 7 | $-\tau - \tau $ | |
| 8 | Kamala D. Harris | |
| 9 | Attorney General of California MARC D. GREENBAUM | |
| 10 | Supervising Deputy Attorney General | |
| 11 | ma imality | |
| 12 | MORGAN MALEK | |
| 13 | Attorneys for Complainant | |
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Stipulated Surrender of License (Case No. 4105)

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Exhibit A

Accusation No. 4105

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| | 1 2 3 | KAMALA D. HARRIS Attorney General of California MARC D. GREENBAUM Supervising Deputy Attorney General MORGAN MALEK Deputy Attorney General |
| | 4 5 6 7 | State Bar No. 223382 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2643 Facsimile: (213) 897-2804 Attorneys for Complainant |
| | 8 9 10 | BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA |
| • | 11 | In the Matter of the Accusation Against: Case No. 4105 |
| | 12 13 · | NICOLE ALANA PETERS3327 Preble AvenueVentura, CA 93003A C C U S A T I O N |
| | 14 | Pharmacy Technician License No. TCH 77539 |
| | 15 | Respondent. |
| | 16 | |
| | 17 | Complainant alleges: |
| | 18 | <u>PARTIES</u> |
| | 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 (Board). |
| | 21 | 2. On or about July 30, 2007, the Board issued Pharmacy Technician License |
| | 22 | No. TCH 77539 to Nicole Alana Peters (Respondent). The Pharmacy Technician License was in |
| | 23 | full force and effect at all times relevant to the charges brought herein and will expire on |
| , | 24 | September 30, 2012, 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. |
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| | | Accusation |

STATUTORY PROVISIONS

Section 118, subdivision (b), provides that the suspension, expiration, surrender or 4. 2 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.

Section 490 provides that a board may suspend or revoke a license on the ground that 5. 6 the licensee has been convicted of a crime substantially related to the qualifications, functions, or 7 duties of the business or profession for which the license was issued. 8

Section 4300, subdivision (a), states that "[e]very license issued may be suspended or 6. 9 revoked." 10

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Section 4301 states, in pertinent part: 7.

"The board shall take action against any holder of a license who is guilty of unprofessional 12 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 13 Unprofessional conduct shall include, but is not limited to, any of the following: 14

- The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or "(f) – 16 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and 17 whether the act is a felony or misdemeanor or not. 18
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20 "(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 . 21 oneself, to a person holding a license under this chapter, or to any other person or to the public, or 22 to the extent that the use impairs the ability of the person to conduct with safety to the public the 23 practice authorized by the license. 24

The conviction of a crime substantially related to the qualifications, functions, and "(l) 26 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 27 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 28

substances or of a violation of the statutes of this state regulating controlled substances or 1 2 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. 3 The board may inquire into the circumstances surrounding the commission of the crime, in order 4 to fix the degree of discipline or, in the case of a conviction not involving controlled substances 5 or dangerous drugs, to determine if the conviction is of an offense substantially related to the 6 gualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 7 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning 8 9 of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made 10 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 11 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 12guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 13 indictment..." 14 **REGULATORY PROVISION** 15 8. California Code of Regulations, title 16, section 1770, states: 16 "For the purpose of denial, suspension, or revocation of a personal or facility license 17 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a 18 crime or act shall be considered substantially related to the qualifications, functions or duties of a 19 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a 20 licensee or registrant to perform the functions authorized by his license or registration in a manner 21 consistent with the public health, safety, or welfare." 22 COST RECOVERY 23 9: Section 125.3 provides that the Board may request the administrative law judge to 24 direct a licentiate found to have committed a violation or violations of the licensing act to pay a 25 sum not to exceed the reasonable costs of the investigation and enforcement of the case. 26 27III]]] 28

FIRST CAUSE FOR DISCIPLINE

(Convictions of Substantially Related Crimes)

10. Respondent is subject to disciplinary action under sections 490, 4300, and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent was convicted of crimes substantially related to the qualifications, functions or duties of a licensee which to a substantial degree evidences her present or potential unfitness to perform the functions authorized by hers license in a manner consistent with the public health, safety, or welfare. The convictions are as follows:

On or about February 29, 2012, after pleading guilty. Respondent was convicted of 9 a, one misdemeanor count of violating Penal Code section 484(a) [petty theft] in the criminal 10 proceeding entitled The People of the State of California v. Nicole Alana Peters (Super. Ct. 11 Ventura County, 2011, No. 2011021986MA). The Court sentenced Respondent to 30 days jail. 12 placed her on 36 months probation, and ordered her to stay away from Rite Aid, Ventura, 13 California. The circumstances underlying the conviction are that on or about June 18, 2011, 14 Respondent was arrested for shoplifting from Rite-Aid, Ventura, California, after she was 15 approached for detention by loss prevention officers, became confrontational and combative, and 16 caused store security to lock the automatic front doors and to have an employee allow people in 17 and out of the store through a side door due to an uncooperative shoplifter inside causing a scene. 18 Respondent took and concealed \$23.97 worth of merchandise: two (2) sets of pink hangars, two 19 (2) sets of everyday cards, and one (1) box cutter. 20

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b. On or about February 29, 2012, after pleading guilty, Respondent was convicted of one misdemeanor count of violating Penal Code section 459 [second degree commercial burglary] in the criminal proceeding entitled *The People of the State of California v. Nicole Alana Peters* (Super. Ct. Ventura County, 2010, No. 2010045516MA). The Court sentenced Respondent to 30 days jail, placed her on 36 months probation, and ordered her to stay away from Target, Ventura, California. The circumstances underlying the conviction are that on or about December 22, 2010, Respondent was arrested for shoplifting from Target, Ventura, California, after she was in the store shoplifting and identified as an unapprehended shoplifter from the

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Accusation

previous day. On or about December 22, 2010, Respondent took and concealed \$93.11 worth of
 merchandise, clothing, accessories, a book and stationery articles, and paid for two (2) blouses
 after switching out their prices with lower clearance price tags. On or about December 21, 2010,
 before Respondent ran out to her vehicle and sped away, she was observed shoplifting various
 merchandise, a shirt, socks, leggings and shoes.

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c. On or about June 1, 2011, after pleading guilty, Respondent was convicted of one interlineated misdemeanor count of violating Vehicle Code section 14601.5 [knowingly drive with a suspended/revoked driver's license] in the criminal proceeding entitled *The People of the State of California v. Nicole Alana Peters* (Super. Ct. Los Angeles County, 2011,

No. 1MB01098). The Court sentenced Respondent to 10 days jail, placed her on 36 months
probation, and ordered her to drive her vehicle with an installed ignition interlock device for
one (1) year. The circumstances underlying the conviction are that on or about April 2, 2011,
Respondent drove a vehicle while having her driving privilege suspended or revoked.

d. On or about March 1, 2011, after pleading guilty, Respondent was convicted of one 14 misdemeanor count of violating Vehicle Code section 23152(b) [drive with an equal to or greater 15 than 0.08% blood alcohol content (BAC)] in the criminal proceeding entitled The People of the 16 State of California v. Nicole Alana Peters (Super. Ct. Ventura County, 2010, No. 20100030433). 17 The Court sentenced Respondent to one (1) day jail, placed her on 36 months probation, and 18 ordered her to complete a 90-Day First Offender Drinking Driver Program. The circumstances 19 underlying the conviction are that on or about August 25, 2010, Respondent drove while under 20the influence of a tested 0.113%/0.114% BAC. In addition, Respondent admittedly drove with a 21 suspended driver's license. 22

SECOND CAUSE FOR DISCIPLINE

(Dangerous Use of Alcohol)

11. Respondent is subject to disciplinary action under sections 4300 and 4301,
subdivision (h), on the grounds of unprofessional conduct, in that on or about August 25, 2010,
Respondent dangerously used alcoholic beverages to an extent or in a manner as to be dangerous
or injurious to herself or others. Complainant refers to and by this reference incorporates the

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allegations set forth above in paragraph 10, subparagraph (d), inclusive, as though set forth fully. 1 THIRD CAUSE FOR DISCIPLINE 2 (Acts of Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption) 3 Respondent is subject to disciplinary action under sections 4300 and 4301, 12. 4 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts 5 involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant refers to and by б this reference incorporates the allegations set forth above in paragraphs 10, subparagraphs a-c. 7 and 11, inclusive, as though set forth fully. 8 FOURTH CAUSE FOR DISCIPLINE 9 (Unprofessional Conduct) 10 Respondent is subject to disciplinary action under sections 4300 and 4301, for 13. 11 committing acts of unprofessional conduct. Complainant refers to and by this reference 12 incorporates the allegations set forth above in paragraphs 10 - 12, inclusive, as though set forth 13 fully. 14 DISCIPLINE CONSIDERATIONS 15 To determine the degree of discipline, Complainant alleges: 14. 16 On or about October 1, 2009, the Board issued Respondent a Letter of Admonishment 17 a. for violating sections 4301, subdivision (f) [acts of moral turpitude, dishonesty, fraud, deceit, or 18 19 corruption] and subdivision (1) [conviction of a substantially related crime] directing her appeal or to submit a written corrective action plan documenting her compliance within 30 days. 20 b. On or about February 26, 2009, after pleading nolo contendere, Respondent was 21 convicted of one misdemeanor count of violating Penal Code section 487(a) [grand theft of 22 personal property] in the criminal proceeding entitled The People of the State of California v. 23 Nicole Alana Peters (Super. Ct. Ventura County, 2008, No. 2008052104). The Court sentenced 24 Respondent to 30 days jail, placed her on 36 months probation, ordered her to complete 12-Step 25 Psychiatric Care, and ordered her to stay away from Macy's. The circumstances underlying the 26 conviction are that on or about December 14, 2008, Respondent shoplifted various clothing items 27valued at \$480.20 from Macy's, Ventura, California. 28

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Accusation

PRAYER 1 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 2 and that following the hearing, the Board issue a decision: 3 Revoking or suspending Pharmacy Technician License No. TCH 77539, issued to 1. 4 5 Nicole Alana Peters; 2. Ordering Nicole Alana Peters to pay the Board the reasonable costs of the 6 investigation and enforcement of this case, pursuant to section 125.3; and 7 Taking such other and further action as deemed necessary and proper, 3. 8 9 10 11 13 DATED: 12 VIRGINIA HEROLD Executive Officer 13 Board of Pharmacy Department of Consumer Affairs 14 State of California Complainant 15 16 LA2011601111 51168510.doc 17 18 19 20 21 22 23 24 25 26 27 28 7 Accusation