

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

In the Matter of the Statement of Issues Against:

Case No. 3842

SUSAN KATHERINE DEMBER

321 East Amerige Avenue

Fullerton, CA 92832

Pharmacy Technician Applicant

Respondent.

DECISION AND ORDER

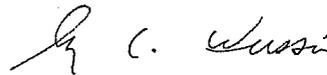
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 23, 2011.

It is so ORDERED on October 24, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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

11 In the Matter of the Statement of Issues
12 Against:

13 **SUSAN KATHERINE DEMBER**
14 **321 EAST AMERIGE AVENUE**
FULLERTON, CA 92832

15 Respondent.

Case No. 3842

OAH No. 2011020051

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings 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 David E. Hausfeld, Deputy Attorney
24 General.

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

27 3. On or about June 22, 2009, Respondent filed an application dated May 19, 2010, with
28 the Board of Pharmacy to obtain a Pharmacy Technician registration.

1 communicate directly with the Board regarding this stipulation and settlement, without notice to
2 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
3 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
4 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
5 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
6 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
7 not be disqualified from further action by having considered this matter.

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

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

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

20 **DISCIPLINARY ORDER**

21 IT IS HEREBY ORDERED that upon satisfactory completion of all statutory and
22 regulatory requirements for issuance of a license, a Pharmacy Technician registration will be
23 issued to Respondent Susan Katherine Dember and immediately revoked. The order of
24 revocation is stayed and Respondent is placed on probation for two (2) years upon the following
25 terms and conditions.

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

27 Respondent shall be automatically suspended from working as a pharmacy technician until
28 she is certified as defined by Business and Professions Code section 4202(a)(4) and provides

1 satisfactory proof of certification to the Board. Respondent shall not resume working as a
2 pharmacy technician until notified by the Board. Failure to achieve certification within one (1)
3 year shall be considered a violation of probation. Respondent shall not resume working as a
4 pharmacy technician until notified by the Board.

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

13 Subject to the above restrictions, Respondent may continue to own or hold an interest in
14 any licensed premises by the board in which she holds an interest at the time this decision
15 becomes effective unless otherwise specified in this order.

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

17 **2. Obey All Laws**

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

19 Respondent shall report any of the following occurrences to the Board, in writing, within
20 seventy-two (72) hours of such occurrence:

- 21 an arrest or issuance of a criminal complaint for violation of any provision of the
22 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
23 substances laws
- 24 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
25 criminal complaint, information or indictment
- 26 a conviction of any crime
- 27 discipline, citation, or other administrative action filed by any state or federal agency
28 which involves Respondent's Pharmacy Technician registration or which is related to

1 the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
2 billing, or charging for any drug, device or controlled substance.

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

4 **3. Report to the Board**

5 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
6 designee. The report shall be made either in person or in writing, as directed. Among other
7 requirements, Respondent shall state in each report under penalty of perjury whether there has
8 been compliance with all the terms and conditions of probation. Failure to submit timely reports
9 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
10 in submission of reports as directed may be added to the total period of probation. Moreover, if
11 the final probation report is not made as directed, probation shall be automatically extended until
12 such time as the final report is made and accepted by the Board.

13 **4. Interview with the Board**

14 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
15 with the Board or its designee, at such intervals and locations as are determined by the Board or
16 its designee. Failure to appear for any scheduled interview without prior notification to Board
17 staff, or failure to appear at two (2) or more scheduled interviews with the Board or its designee
18 during the period of probation, shall be considered a violation of probation.

19 **5. Cooperate with Board Staff**

20 Respondent shall cooperate with the Board's inspection program and with the Board's
21 monitoring and investigation of Respondent's compliance with the terms and conditions of her
22 probation. Failure to cooperate shall be considered a violation of probation.

23 **6. Notice to Employers**

24 During the period of probation, Respondent shall notify all present and prospective
25 employers of the decision in case number 3842 and the terms, conditions and restrictions imposed
26 on Respondent by the decision, as follows:

27 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
28 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
2 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
3 individual(s) has/have read the decision in case number 3842 and the terms and conditions
4 imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
5 supervisor(s) submit timely acknowledgement(s) to the Board.

6 If Respondent works for or is employed by or through a pharmacy employment service,
7 Respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
8 of the terms and conditions of the decision in case number 3842 in advance of the Respondent
9 commencing work at each pharmacy. A record of this notification must be provided to the Board
10 upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
12 (15) days of Respondent undertaking any new employment by or through a pharmacy
13 employment service, respondent shall cause her direct supervisor with the pharmacy employment
14 service to report to the Board in writing acknowledging that she has read the decision in case
15 number 3842 and the terms and conditions imposed thereby. It shall be Respondent's
16 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
17 acknowledgment(s) to the Board.

18 Failure to timely notify present or prospective employer(s) or to cause that/those
19 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of
20 probation.

21 "Employment" within the meaning of this provision shall include any full-time,
22 part-time, temporary or relief service or pharmacy management service as a pharmacy
23 technician or in any position for which a pharmacy technician license is a requirement
24 or criterion for employment, whether the Respondent is considered an employee,
25 independent contractor or volunteer.

26 **7. Probation Monitoring Costs**

27 Respondent shall pay any costs associated with probation monitoring as determined by the
28 Board each and every year of probation. Such costs shall be payable to the Board on a schedule

1 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
2 shall be considered a violation of probation.

3 **8. Status of License**

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

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

11 **9. License Surrender While on Probation/Suspension**

12 Following the effective date of this decision, should Respondent cease work due to
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
14 Respondent may tender her pharmacy technician license to the Board for surrender. The Board or
15 its designee shall have the discretion whether to grant the request for surrender or take any other
16 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
17 license, Respondent will no longer be subject to the terms and conditions of probation. This
18 surrender constitutes a record of discipline and shall become a part of the Respondent's license
19 history with the Board.

20 Upon acceptance of the surrender, Respondent shall relinquish her pharmacy technician
21 license to the Board within ten (10) days of notification by the Board that the surrender is
22 accepted. Respondent may not reapply for any license, permit, or registration from the Board for
23 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
24 applicable to the license sought as of the date the application for that license is submitted to the
25 Board.

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1 10. **Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

3 Respondent shall notify the Board in writing within ten (10) days of any change of
4 employment. Said notification shall include the reasons for leaving, the address of the new
5 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
6 shall further notify the Board in writing within ten (10) days of a change in name, residence
7 address and mailing address, or phone number.

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

10 11. **Tolling of Probation**

11 Except during periods of suspension, Respondent shall, at all times while on probation, be
12 employed as a pharmacy technician in California for a minimum of twenty (20) hours per
13 calendar month. Any month during which this minimum is not met shall toll the period of
14 probation, i.e., the period of probation shall be extended by one month for each month during
15 which this minimum is not met. During any such period of tolling of probation, Respondent must
16 nonetheless comply with all terms and conditions of probation.

17 Should Respondent, regardless of residency, for any reason (including vacation) cease
18 working as a pharmacy technician for a minimum of twenty (20) hours per calendar month in
19 California, Respondent must notify the Board in writing within ten (10) days of cessation of work
20 and must further notify the Board in writing within ten (10) days of the resumption of the work.
21 Any failure to provide such notification(s) shall be considered a violation of probation.

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

25 "Cessation of work" means calendar month during which respondent is not
26 working for at least twenty (20) hours as a pharmacy technician, as defined in

27 Business and Professions Code section 4115. "Resumption of work" means any

28 calendar month during which Respondent is working as a pharmacy technician for at

1 least twenty (20) hours as a pharmacy technician as defined by Business and
2 Professions Code section 4115.

3 **12. Violation of Probation**

4 If Respondent has not complied with any term or condition of probation, the Board shall
5 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
6 until all terms and conditions have been satisfied or the Board has taken other action as deemed
7 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
8 to impose the penalty that was stayed.

9 If Respondent violates probation in any respect, the Board, after giving Respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
12 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
13 a petition to revoke probation or an accusation is filed against Respondent during probation, the
14 Board shall have continuing jurisdiction, and the period of probation shall be automatically
15 extended until the petition to revoke probation or accusation is heard and decided.

16 **13. Completion of Probation**

17 Upon written notice by the Board indicating successful completion of probation,
18 Respondent's pharmacy technician license will be fully restored.

19 **14. No Ownership of Licensed Premises**

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

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1 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

2 Upon one confirmed positive drug and/or alcohol screen Respondent shall begin regular
3 attendance at a recognized and established substance abuse recovery support group in California,
4 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the Board
5 or its designee. Respondent must attend at least one group meeting per week unless otherwise
6 directed by the Board or its designee. Respondent shall continue regular attendance and submit
7 signed and dated documentation confirming attendance with each quarterly report for the duration
8 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
9 probation.

10 **16. Random Drug Screening**

11 Respondent, at her own expense, shall participate in random testing, including but not
12 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
13 screening program as directed by the Board or its designee. Respondent may be required to
14 participate in testing for the entire probation period and the frequency of testing will be
15 determined by the Board or its designee. At all times Respondent shall fully cooperate with the
16 Board or its designee, and shall, when directed, submit to such tests and samples for the detection
17 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
18 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
19 of probation. Upon request of the Board or its designee, Respondent shall provide documentation
20 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
21 a necessary part of the treatment of the Respondent. Failure to timely provide such
22 documentation shall be considered a violation of probation. Any confirmed positive test for
23 alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented
24 medical treatment shall be considered a violation of probation and shall result in the automatic
25 suspension of work by Respondent. Respondent may not resume work as a pharmacy technician
26 until notified by the Board in writing.

27 During suspension, Respondent shall not enter any pharmacy area or any portion of or any
28 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other

1 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
2 devices or controlled substances are maintained. Respondent shall not do any act involving drug
3 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
4 manage, administer, or assist any licensee of the Board. Respondent shall not have access to or
5 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
6 substances. Respondent shall not resume work until notified by the Board.

7 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
8 Subject to the above restrictions, Respondent may continue to own or hold an interest in any
9 licensed premises in which she holds an interest at the time this decision becomes effective unless
10 otherwise specified in this order.

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

12 **17. Work Site Monitor**

13 Within ten (10) days of the effective date of this decision, Respondent shall identify a work
14 site monitor, for prior approval by the Board, who shall be responsible for supervising
15 Respondent during working hours. Respondent shall be responsible for ensuring that the work
16 site monitor reports in writing to the Board quarterly. Should the designated work site monitor
17 determine at any time during the probationary period that Respondent has not maintained
18 sobriety, she shall notify the Board immediately, either orally or in writing as directed. Should
19 Respondent change employment, a new work site monitor must be designated, for prior approval
20 by the Board, within ten (10) days of commencing new employment. Failure to identify an
21 acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to
22 the Board, shall be considered a violation of probation.

23 **18. Notification of Departure**

24 Prior to leaving the probationary geographic area designated by the Board or its designee
25 for a period greater than twenty-four (24) hours, Respondent shall notify the Board verbally and
26 in writing of the dates of departure and return. Failure to comply with this provision shall be
27 considered a violation of probation.

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19. Abstain from Drugs and Alcohol Use

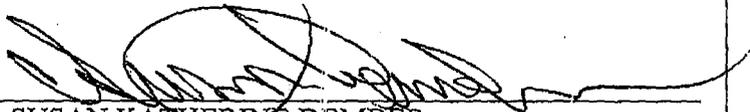
Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that she is not in the same physical location as individuals who are using illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

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:

8/23/11



SUSAN KATHERINE DEMBER
Respondent

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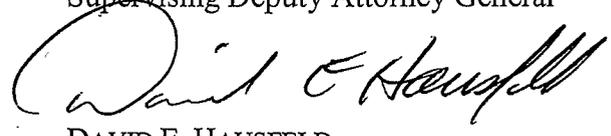
ENDORSEMENT

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

Dated: 8/25/11

Respectfully submitted,

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



DAVID E. HAUSFELD
Deputy Attorney General
Attorneys for Complainant

SD2010702570
80540093.doc

Exhibit A

Statement of Issues No. 3842

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13 **SUSAN KATHERINE DEMBER**
14 **321 EAST AMERIGE AVENUE**
FULLERTON, CA 92832

STATEMENT OF ISSUES

15 Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about June 22, 2009, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for registration as a Pharmacy Technician from Susan Katherine Dember
24 (Respondent). On or about June 18, 2009, Susan Katherine Dember certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on May 19, 2010.

27 ///

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1 (1) Been convicted of a crime. A conviction within the meaning of this
2 section means a plea or verdict of guilty or a conviction following a plea of nolo
3 contendere. Any action which a board is permitted to take following the
4 establishment of a conviction may be taken 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 suspending the imposition of sentence, irrespective of a
subsequent order under the provisions of Section 1203.4 of the Penal Code.

5

6 (3) Done any act which if done by a licentiate of the business or profession
in question, would be grounds for suspension or revocation of license.

7 The board may deny a license pursuant to this subdivision only if the crime
8 or act is substantially related to the qualifications, functions or duties of the
business or profession for which application is made.

9

10 7. Section 493 of the Code states:

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

18 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
'registration.'

19 8. Section 4301 of the Code states:

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

24

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

28

1 (k) The conviction of more than one misdemeanor or any felony involving
2 the use, consumption, or self-administration of any dangerous drug or alcoholic
3 beverage, or any combination of those substances.

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

23

24 REGULATORY PROVISIONS

25 9. California Code of Regulations, title 16, section 1770, states:

26 For the purpose of denial, suspension, or revocation of a personal or facility
27 license pursuant to Division 1.5 (commencing with Section 475) of the Business
28 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.

10. California Code of Regulations, title 16, section 1769, states, in pertinent part:

(a) When considering the denial of a facility or personal license under
Section 480 of the Business and Professions Code, the board, in evaluating the
rehabilitation of the applicant and his present eligibility for licensing or
registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under
consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or
crime(s) under consideration as grounds for denial under Section 480 of the
Business and Professions Code.

1 (3) The time that has elapsed since commission of the act(s) or crime(s)
referred to in subdivision (1) or (2).

2 (4) Whether the applicant has complied with any terms of parole,
3 probation, restitution or any other sanctions lawfully imposed against the
applicant.

4 (5) Evidence, if any, of rehabilitation submitted by the applicant.

5 **FIRST CAUSE FOR DENIAL OF APPLICATION**

6 **(May 9, 2000 Criminal Conviction for DUI on March 17, 2000)**

7 11. Respondent's application is subject to denial under section 480, subdivisions (a) (1)
8 and (a) (3), sections 4300, subdivision (c) and 4301 subdivision (l) of the Code, in that
9 Respondent was convicted of a crime that is substantially related to the qualifications, functions,
10 and duties of a pharmacy technician. The circumstances are as follows.

11 12. On or about May 9, 2000, in a criminal proceeding entitled *People of the State of*
12 *California v. Susan Katherine Dember*, in Orange County Superior Court, case number
13 BR00NM06732, Respondent was convicted on her plea of guilty of violating Vehicle Code
14 section 23152, subdivision (a), driving a vehicle while under the influence of alcohol and Vehicle
15 Code section 23152, subdivision (b), driving a vehicle while having a blood alcohol content in
16 excess of .08 percent, both misdemeanors.

17 13. As a result of the conviction, on or about May 9, 2000, Respondent was sentenced to
18 three years summary probation, ordered to complete a three month First Offender Alcohol
19 Program and pay fees and fines.

20 14. The facts that led to the conviction were that on or about March 17, 2000, Respondent
21 unlawfully drove a motor vehicle while having a blood alcohol content by weight in excess of .08
22 percent, to wit, .18 percent.

23 **SECOND CAUSE FOR DENIAL OF APPLICATION**

24 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

25 15. Respondent's application is subject to denial under section 480, subdivision (a) (3),
26 sections 4300, subdivision (c) and 4301, subdivision (h) of the Code in that on or about March 17,
27 2000, as described in the First Cause for Denial of Application, above, Respondent used alcoholic
28 beverages to an extent or in a manner that was dangerous or injurious to herself and to others in

1 that she operated a motor vehicle while impaired by alcohol. Such unprofessional conduct posed
2 a significant threat to public safety.

3 **THIRD CAUSE FOR DENIAL OF APPLICATION**

4 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offense)**

5 16. Respondent's application is subject to denial under section 480, subdivision (a) (3),
6 sections 4300, subdivision (c) and 4301, subdivision (k) of the Code in that on or about March 17,
7 2000, as described in the First Cause for Denial of Application, above, Respondent was convicted
8 of a criminal offense involving the consumption and/or self-administration of alcohol, which
9 constitutes unprofessional conduct.

10 **FOURTH CAUSE FOR DENIAL OF APPLICATION**

11 **(August 7, 2008 Criminal Conviction for DUI on November 4, 2007)**

12 17. Respondent's application is subject to denial under section 480, subdivisions (a) (1)
13 and (a) (3), sections 4300, subdivision (c) and 4301 subdivision (l) of the Code, in that
14 Respondent was convicted of a crime that is substantially related to the qualifications, functions,
15 and duties of a pharmacy technician. The circumstances are as follows.

16 18. On or about August 7, 2008, in a criminal proceeding entitled *People of the State of*
17 *California v. Susan Katherine Dember*, in Orange County Superior Court, case number
18 08NM00423, Respondent was convicted on her plea of guilty of violating Vehicle Code section
19 23152, subdivision (a), driving a vehicle while under the influence of alcohol and Vehicle Code
20 section 23152, subdivision (b), driving a vehicle while having a blood alcohol content in excess
21 of .08 percent, both misdemeanors.

22 19. As a result of the conviction, on or about August 7, 2008, Respondent was sentenced
23 to three years summary probation, ordered to complete an eighteen month Multiple Offender
24 Alcohol Program, to complete a MADD Victim's Impact panel and pay fees and fines.

25 20. The facts that led to the conviction were that on or about November 4, 2007, a patrol
26 officer with the Brea Police Department observed a blue Infiniti G-35 weaving in lanes on
27 westbound Lambert Avenue. The officer pulled the vehicle over and found Respondent as the
28 driver and sole occupant of the vehicle. The officer noted that upon contact with Respondent she

1 had watery and bloodshot eyes, her speech was slurred, mumbled and soft, and she had a strong
2 odor of an alcoholic beverage on her breath. Respondent was unable to pass and complete the
3 field sobriety tests that were conducted. Based on his observations, the officer arrested
4 Respondent for driving under the influence of alcohol. Respondent's blood alcohol content was
5 tested and found to be in excess of .08 percent, to wit, .22 percent.

6 **FIFTH CAUSE FOR DENIAL OF APPLICATION**

7 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

8 21. Respondent's application is subject to denial under section 480, subdivision (a) (3),
9 sections 4300, subdivision (c) and 4301, subdivision (h) of the Code in that on or about
10 November 4, 2007, as described in the Fourth Cause for Denial of Application, above,
11 Respondent used alcoholic beverages to an extent or in a manner that was potentially dangerous
12 or injurious to herself and to others in that she operated a motor vehicle while impaired by
13 alcohol. Such unprofessional conduct posed a significant threat to public safety.

14 **SIXTH CAUSE FOR DENIAL OF APPLICATION**

15 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offense)**

16 22. Respondent's application is subject to denial under section 480, subdivision (a) (3),
17 sections 4300, subdivision (c) and 4301, subdivision (k) of the Code in that on or about
18 November 4, 2007, as described in the Fourth Cause for Denial of Application, above,
19 Respondent was convicted of a criminal offense involving the consumption and/or self-
20 administration of alcohol, which constitutes unprofessional conduct.

21 **PRAYER**

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

24 1. Denying the application of Susan Katherine Dember for registration as a Pharmacy
25 Technician;

26 ///

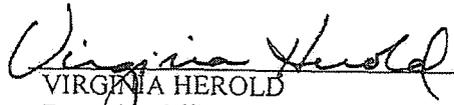
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2. Taking such other and further action as deemed necessary and proper.

DATED: 11/2/10



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

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