



California State Board of Pharmacy
 1625 N. Market Blvd, N219, Sacramento, CA 95834
 Phone: (916) 574-7900
 Fax: (916) 574-8618
 www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

2014 NOV -3 PM 4:49

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Rina Smith</u>	Case No. <u>AC 4129</u>
Address of Record: <u>2390 Crenshaw Blvd #311</u> <u>Torrance CA 90501</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC 4129, I hereby request to surrender my pharmacy technician license, License No. 107236. 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.

Rina Smith
 Applicant's Signature

10/31/14
 Date

V. Arnold
 Executive Officer's Approval

11/4/14
 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:

Case No. 4129

RINA LEANN SMITH
2390 Crenshaw Blvd. #311
Torrance, CA 90501

Pharmacy Technician Registration No.
TCH 107236

Respondent.

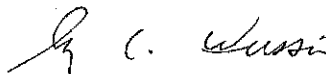
DECISION AND ORDER

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 September 25, 2014.

It is so ORDERED on September 18, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 ELYSE M. DAVIDSON
Deputy Attorney General
4 State Bar No. 285842
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2533
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

10 In the Matter of the Accusation Against:
11 **RINA LEANN SMITH**
12 **2390 Crenshaw Blvd., #311**
13 **Torrance, CA 90501**
14 **Pharmacy Technician Registration No. TCH**
15 **107236**
16 Respondent.

Case No. 4129
OAH No. 2014020958
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 K. Herold ("Complainant") is the Executive Officer of the California State
22 Board of Pharmacy. She brought this action solely in her official capacity and is represented in
23 this matter by Kamala D. Harris, Attorney General of the State of California, by Elyse Marie
24 Davidson, Deputy Attorney General.

25 2. Respondent Rina Leann Smith ("Respondent") is represented in this proceeding by
26 attorney Henry Salcido, whose address is: 429 East Anaheim Street, Long Beach, CA 90804

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1 3. On or about September 21, 2010, the California State Board of Pharmacy ("Board")
2 issued Pharmacy Technician Registration No. TCH 107236 to Rina Leann Smith. The Pharmacy
3 Technician Registration was in full force and effect at all times relevant to the charges brought in
4 Accusation No. 4129 and will expire on June 30, 2016, unless renewed.

5 JURISDICTION

6 4. Accusation No. 4129 was filed before the Board, and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent on October 22, 2013. Respondent timely filed her Notice of Defense contesting
9 the Accusation.

10 5. A copy of Accusation No. 4129 is attached as Exhibit A and incorporated herein by
11 reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 4129. Respondent has also carefully read, fully
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
16 Order.

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

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

26 CULPABILITY

27 9. Respondent admits the truth of each and every charge and allegation in Accusation
28 No. 4129.

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

CONTINGENCY

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

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

14. 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 Disciplinary Order:

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1 DISCIPLINARY ORDER

2 Pharmacy technician license number 107236 is revoked; however the revocation is stayed
3 and respondent is placed on probation for 5 years upon the following terms and conditions:

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

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

11 During suspension, respondent shall not enter any pharmacy area or any portion of 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 Subject to the above restrictions, respondent may continue to own or hold an interest in any
20 licensed premises by the board in which she holds an interest at the time this decision becomes
21 effective unless otherwise specified in this order.

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

23 **2. Obey All Laws**

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

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

- 27 • an arrest or issuance of a criminal complaint for violation of any provision of the
28 Pharmacy Law, state and federal food and drug laws, or state and federal

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controlled substances laws

- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

3. Report to the Board

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

4. Interview with the Board

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

5. Cooperate with Board Staff

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

1 6. **Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case number 4129 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause her direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case number 4129 and the terms and conditions
10 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
11 supervisor(s) submit timely acknowledgement(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
14 of the terms and conditions of the decision in case number 4129 in advance of the respondent
15 commencing work at each pharmacy. A record of this notification must be provided to the board
16 upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause her direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that she has read the decision in case number 4129
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

23 Failure to timely notify present or prospective employer(s) or to cause that/those
24 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
25 probation.

26 "Employment" within the meaning of this provision shall include any full-time, part-
27 time, temporary or relief service or pharmacy management service as a pharmacy
28 technician or in any position for which a pharmacy technician license is a requirement or

1 criterion for employment, whether the respondent is considered an employee, independent
2 contractor or volunteer.

3 **7. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$9,752.50. There shall be no
6 deviation from this schedule absent prior written approval by the board or its designee. Failure to
7 pay costs by the deadline(s) as directed shall be considered a violation of probation.

8 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
9 reimburse the board its costs of investigation and prosecution.

10 **8. Probation Monitoring Costs**

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

15 **9. Status of License**

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

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

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

24 Following the effective date of this decision, should respondent cease work due to
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
26 respondent may tender her pharmacy technician license to the board for surrender. The board or
27 its designee shall have the discretion whether to grant the request for surrender or take any other
28 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the

1 license, respondent will no longer be subject to the terms and conditions of probation. This
2 surrender constitutes a record of discipline and shall become a part of the respondent's license
3 history with the board.

4 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician
5 license to the board within ten (10) days of notification by the board that the surrender is
6 accepted. Respondent may not reapply for any license, permit, or registration from the board for
7 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
8 applicable to the license sought as of the date the application for that license is submitted to the
9 board.

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

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

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

19 **12. Tolling of Probation**

20 Except during periods of suspension, respondent shall, at all times while on probation, be
21 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
22 Any month during which this minimum is not met shall toll the period of probation, i.e., the
23 period of probation shall be extended by one month for each month during which this minimum is
24 not met. During any such period of tolling of probation, respondent must nonetheless comply
25 with all terms and conditions of probation.

26 Should respondent, regardless of residency, for any reason (including vacation) cease
27 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
28 respondent must notify the board in writing within ten (10) days of cessation of work and must

1 further notify the board in writing within ten (10) days of the resumption of the work. Any
2 failure to provide such notification(s) shall be considered a violation of probation.

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

6 "Cessation of work" means calendar month during which respondent is not working
7 for at least 40 hours as a pharmacy technician, as defined in Business and Professions Code
8 section 4115. "Resumption of work" means any calendar month during which respondent
9 is working as a pharmacy technician for at least 40 hours as a pharmacy technician as
10 defined by Business and Professions Code section 4115.

11 13. Violation of Probation

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

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

24 14. Completion of Probation

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

27 15. No Ownership of Licensed Premises

28 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,

1 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
2 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
3 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
4 days following the effective date of this decision and shall immediately thereafter provide written
5 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
6 documentation thereof shall be considered a violation of probation.

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

8 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
9 attendance at a recognized and established substance abuse recovery support group in California,
10 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
11 or its designee. Respondent must attend at least one group meeting per week unless otherwise
12 directed by the board or its designee. Respondent shall continue regular attendance and submit
13 signed and dated documentation confirming attendance with each quarterly report for the duration
14 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
15 probation.

16 **17. Random Drug Screening**

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

1 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
2 shall be considered a violation of probation and shall result in the automatic suspension of work
3 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
4 board in writing.

5 During suspension, respondent shall not enter any pharmacy area or any portion of or 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 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
14 Subject to the above restrictions, respondent may continue to own or hold an interest in any
15 licensed premises in which she holds an interest at the time this decision becomes effective unless
16 otherwise specified in this order.

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

18 **18. Work Site Monitor**

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

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19. Notification of Departure

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

20. Abstain from Drugs and Alcohol Use

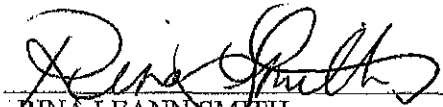
Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee,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

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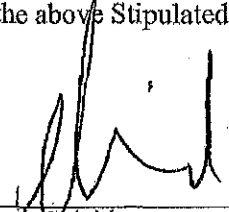
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Henry Salcido. 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: 8/7/14 
RINA LEANN SMITH
Respondent

I have read and fully discussed with Respondent Rina Leann Smith the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 8/8/14 
Henry Salcido
Attorney for Respondent

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ENDORSEMENT

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

Dated: 08/08/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



ELYSE M. DAVIDSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4129

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KRITHHIKA VASUDEVAN
Deputy Attorney General
4 State Bar No. 247590
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

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

11 In the Matter of the Accusation Against:

Case No. 4129

12 **RINA LEANN SMITH**
13 **15622 Chadron Avenue**
Gardena, CA 90249

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **107236**

16 Respondent.

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 (Board).

21 2. On or about September 21, 2010, the Board issued Pharmacy Technician Registration
22 Number TCH 107236 to Rina Leann Smith (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on June 30, 2014, 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 (Code) unless otherwise
28 indicated.

STATUTORY PROVISIONS

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

6 5. Section 4301 of the Code states:

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

10

11 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
12 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
13 oneself, to a person holding a license under this chapter; or to any other person or to the public, or
14 to the extent that the use impairs the ability of the person to conduct with safety to the public the
15 practice authorized by the license.

16

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

19

20 "(l) The conviction of a crime substantially related to the qualifications, functions, and
21 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
22 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
23 substances or of a violation of the statutes of this state regulating controlled substances or
24 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
25 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
26 The board may inquire into the circumstances surrounding the commission of the crime, in order
27 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
28 or dangerous drugs, to determine if the conviction is of an offense substantially related to the

1 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
2 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
3 of this provision. The board may take action when the time for appeal has elapsed, or the
4 judgment of conviction has been affirmed on appeal or when an order granting probation is made
5 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
6 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
7 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
8 indictment.

9

10 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
11 violation of or conspiring to violate any provision or term of this chapter or of the applicable
12 federal and state laws and regulations governing pharmacy, including regulations established by
13 the board or by any other state or federal regulatory agency.

14 6. Code section 4021 provides:

15 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
16 11053) of Division 10 of the Health and Safety Code.

17 7. Section 4022 of the Code states

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
19 humans or animals, and includes the following:

20 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
21 prescription," "Rx only," or words of similar import.

22 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
23 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
24 in with the designation of the practitioner licensed to use or order use of the device.

25 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
26 prescription or furnished pursuant to Section 4006."

27 8. Section 4060 of the Code states:

1 "No person shall possess any controlled substance, except that furnished to a person upon
2 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
3 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
4 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
5 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
6 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
7 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
8 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
9 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
10 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
11 labeled with the name and address of the supplier or producer.

12 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
13 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
14 devices."

15 9. Section 490 of the Code states:

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

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

24 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
25 conviction following a plea of nolo contendere. Any action that a board is permitted to take
26 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
27 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
28

1 made suspending the imposition of sentence, irrespective of a subsequent order under the
2 provisions of Section 1203.4 of the Penal Code.

3 "(d) The Legislature hereby finds and declares that the application of this section has been
4 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal. App.
5 4th 554, and that the holding in that case has placed a significant number of statutes and
6 regulations in question, resulting in potential harm to the consumers of California from licensees
7 who have been convicted of crimes. Therefore, the Legislature finds and declares that this section
8 establishes an independent basis for a board to impose discipline upon a licensee, and that the
9 amendments to this section made by Senate Bill 797 of the 2007 -08 Regular Session do not
10 constitute a change to, but rather are declaratory of, existing law."

11 10. Section 492 of the Code states:

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

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

23 REGULATORY PROVISIONS

24 11. California Code of Regulations, title 16, section 1770, states:

25 "For the purpose of denial, suspension, or revocation of a personal or facility license
26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
27 crime or act shall be considered substantially related to the qualifications, functions or duties of a
28 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

4 12. Marijuana is listed as a Schedule I controlled substance per Health and Safety Code
5 section 11054(d) (13).

6 13. Xanax, a brand name for alprazolam, a benzodiazepine, is a Schedule IV controlled
7 substance as designated by Health and Safety Code section 11057(d) (1) and is categorized as a
8 dangerous drug pursuant to section 4022.

9 14. Cocaine is listed as a Schedule II controlled substance as designated by Health and
10 Safety Code section 11055 and is categorized as a dangerous drug pursuant to section 4022.

11 **COST RECOVERY**

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

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Conviction of a Substantially Related Crime)**

18 16. Respondent has subjected her pharmacy technician registration to discipline under
19 Code section 490, Code section 4301 (l), and (o), in accordance with California Code of
20 Regulations, Title 16, section 1770 for unprofessional conduct because Respondent was convicted
21 of crimes substantially related to the qualifications, functions or duties of a pharmacy technician
22 which to a substantial degree evidence her present and potential unfitness to practice in a manner
23 consistent with the public health, safety, or welfare. The conviction is as follows:

24 a. On February 27, 2013, after pleading nolo contendere pursuant to Vehicle Code
25 section 23103.5, Respondent was convicted of one misdemeanor count of violating Vehicle Code
26 section 23103 in the criminal proceeding entitled the *People of the State of California v. Rina*
27 *Leann Smith* (Super. Ct. Los Angeles County, 2013, No. 2LT01072). The court placed her on
28

1 three (3) years summary probation, ordered her to pay a fine or do jail in lieu of the fine, and pay
2 restitution.

3 b. The circumstances underlying the conviction are that on or about December 17,
4 2011, Respondent was driving a black BMW while under the influence of marijuana. While
5 attempting to make a right turn she struck a power pole and totaled her car. She was transported
6 to the hospital with injuries. At the hospital, the arresting officer found Respondent had marijuana
7 in her possession and thirteen capsules containing an unknown white powdery substance.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Violation of a Statute Involving Controlled Substances and Dangerous Drugs)**

10 17. The Respondent has subjected her pharmacy technician registration to discipline under
11 Code section 492, Code section 4301(j) and (o), in accordance with Code section 4060, and
12 California Code of Regulations, Title 16, section 1770 for unprofessional conduct because
13 Respondent committed an act in violation of a statute of this state, of any other state, or of the
14 United States regulating controlled substances and dangerous drugs.

15 a. On March 6, 2011, at approximately 1 a.m., Gardena Police officers came across a
16 suspicious parked car. When they approached the car, they noted a strong smell of marijuana
17 coming from within the car. Respondent was asleep in the driver's seat of the car and the owner
18 of the car was asleep in the passenger seat of the car. Officers asked Respondent if they could
19 search the car. Respondent consented to the search and told them that there was marijuana and
20 Xanax in the car. The officers found marijuana inside Respondent's purse. In the center console,
21 the officers located a super glue container that contained six white tablets that read "ONAX."
22 Respondent admitted to the officers that those were "Zannies" and that they belonged to her. She
23 stated that she knew she had to have a prescription for them; but she had none. Respondent told
24 officers that she had bought them from a person known as, "White Chocolate." She stated that she
25 paid \$3.00 for a pill, and uses them for personal use.

26 b. On or about June 8, 2011, Respondent pled guilty to one misdemeanor count
27 of violating Business and Professions Code section 4060 [possession of a controlled substance
28 without a prescription], in the criminal proceeding entitled *The People of the State of California v.*

1 *Rina Leann Smith* (Super. Ct. Los Angeles, 2011, No. 1SY03431.) The court placed Respondent
2 on 18 months deferred entry of judgment, ordered Respondent to complete a 6 months drug
3 counseling program; and fined her. Respondent successfully completed the deferred entry of
4 judgment program on December 7, 2011. The court set aside the guilty plea and dismissed the
5 criminal case on December 7, 2011.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Dangerous Use of Alcoholic Beverage)**

8 18. Respondent is subject to disciplinary action under section 4301(h) on the grounds of
9 unprofessional conduct in that on or about February 27, 2013, Respondent was convicted of a
10 crime involving the consumption of alcoholic beverage. Complaint refers to and by this reference
11 incorporates the allegations set forth above in paragraph 16, subparagraphs a and b, inclusive, as
12 though set forth fully.

13 **OTHER DISCIPLINARY CONSIDERATIONS**

14 19. On September 25, 2011, Respondent was arrested for violation of Health and Safety
15 Code section 11350(a), possession of cocaine. The circumstances surrounding that arrest are that
16 police officers contacted Respondent in the driver's seat of a parked car at a Travelodge motel in
17 Torrance, California. Respondent was alone and admitted to having marijuana in her possession.
18 A search of the vehicle recovered white and powdery substances in the center console of the car
19 next to the front passenger seat. Respondent identified the substance as cocaine. She stated that
20 earlier a friend had pulled out a bag of cocaine inside Respondent's car, and that some of the
21 cocaine spilled out from the bag into the center console.

22 **PRAYER**

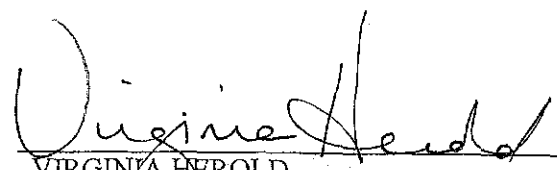
23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Pharmacy issue a decision:

25 1. Revoking or suspending Pharmacy Technician Registration Number TCH 107236,
26 issued to Rina Leann Smith

1 2. Ordering Rina Leann Smith to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3;

4 3. Taking such other and further action as deemed necessary and proper.
5

6
7 DATED: 7/22/13


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

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