



**California State Board of Pharmacy**

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

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

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Joleen Acosta</u>	Case No. <u>AC 4306</u>
Address of Record: <u>10208 Belcher St.</u> <u>Downey Ca. 90242</u>	

Received  
NOV 25 2013  
California State Board of Pharmacy

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC 4306, I hereby request to surrender my pharmacy technician license, License No. TCH 35403. 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.

Joleen Acosta  
Applicant's Signature

11/19/13  
Date

Regina Heidd  
Executive Officer's Approval

12/2/13  
Date

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

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

In the Matter of the Accusation Against:

Case No. 4306

**JOLEEN MARIE ACOSTA**

10208 Belcher Street  
Downey, CA 90242

Pharmacy Technician License No. TCH 35403

Respondent.

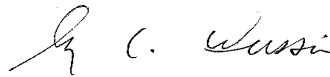
**DECISION AND ORDER**

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

This decision shall become effective on October 28, 2013.

It is so ORDERED on October 21, 2013.

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 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
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Deputy Attorney General  
4 State Bar No. 117851  
300 So. Spring Street, Suite 1702  
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*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. 4306

12 **JOLEEN MARIE ACOSTA**  
10208 Belcher Street  
13 Downey, CA 90242  
14 **Pharmacy Technician Registration No. TCH**  
**35403**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 Respondent.  
16

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

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

24 2. Respondent Joleen Marie Acosta (Respondent) is representing herself in this  
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about December 11, 2000, the Board of Pharmacy issued Pharmacy Technician  
27 Registration No. TCH 35403 to Joleen Marie Acosta (Respondent). The Pharmacy Technician  
28

1 Registration was in full force and effect at all times relevant to the charges brought in Accusation  
2 No. 4306 and will expire on January 31, 2014, unless renewed.

3 JURISDICTION

4 4. Accusation No. 4306 was filed before the Board of Pharmacy (Board) , Department  
5 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
6 statutorily required documents were properly served on Respondent on July 5, 2013. Respondent  
7 timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 4306 is attached as exhibit A and incorporated herein by  
9 reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, and understands the charges and allegations in  
12 Accusation No. 4306. Respondent has also carefully read, and understands the effects of this  
13 Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Accusation  
25 No. 4306.

26 10. Respondent agrees that her Pharmacy Technician Registration is subject to discipline  
27 and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary  
28 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 facsimile copies of this Stipulated Settlement and Disciplinary Order, including 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:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 35403 issued to Respondent Joleen Marie Acosta (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

**1. Certification Prior to Resuming Work**

Respondent shall be automatically suspended from working as a pharmacy technician until

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

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

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

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

18 **2. Obey All Laws**

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

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

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

1 which involves respondent's pharmacy technician license or which is related to the  
2 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,  
3 or charging for any drug, device or controlled substance.

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

5 **3. Report to the Board**

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

14 **4. Interview with the Board**

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

20 **5. Cooperate with Board Staff**

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

24 **6. Notice to Employers**

25 During the period of probation, respondent shall notify all present and prospective  
26 employers of the decision in case number 4306 and the terms, conditions and restrictions imposed  
27 on respondent by the decision, as follows:

28 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of

1 respondent undertaking any new employment, respondent shall cause her direct supervisor,  
2 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
3 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
4 individual(s) has/have read the decision in case number 4306 and the terms and conditions  
5 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or  
6 supervisor(s) submit timely acknowledgement(s) to the board.

7 If respondent works for or is employed by or through a pharmacy employment service,  
8 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy  
9 of the terms and conditions of the decision in case number 4306 in advance of the respondent  
10 commencing work at each pharmacy. A record of this notification must be provided to the board  
11 upon request.

12 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
13 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
14 service, respondent shall cause her direct supervisor with the pharmacy employment service to  
15 report to the board in writing acknowledging that she has read the decision in case number 4306  
16 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
17 that her employer(s) and/or supervisor(s) submit timely 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. Reimbursement of Board Costs**

27 As a condition precedent to successful completion of probation, respondent shall pay to the  
28 board its costs of investigation and prosecution in the amount of \$3385.00. Respondent shall



1 make said payments per a payment plan determined by the Board. There shall be no deviation  
2 from this schedule absent prior written approval by the board or its designee. Failure to pay costs  
3 by the deadline(s) as directed shall be considered a violation of probation.

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

6 **8. Probation Monitoring Costs**

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

11 **9. Status of License**

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

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

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

20 Following the effective date of this decision, should respondent cease work due to  
21 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
22 respondent may tender her pharmacy technician license to the board for surrender. The board or  
23 its designee shall have the discretion whether to grant the request for surrender or take any other  
24 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
25 license, respondent will no longer be subject to the terms and conditions of probation. This  
26 surrender constitutes a record of discipline and shall become a part of the respondent's license  
27 history with the board.

28 Upon acceptance of the surrender, respondent shall relinquish her pharmacy technician

1 license to the board within ten (10) days of notification by the board that the surrender is  
2 accepted. Respondent may not reapply for any license, permit, or registration from the board for  
3 three (3) years from the effective date of the surrender. Respondent shall meet all requirements  
4 applicable to the license sought as of the date the application for that license is submitted to the  
5 board.

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

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

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

15 **12. Tolling of Probation**

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

22 Should respondent, regardless of residency, for any reason (including vacation) cease  
23 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,  
24 respondent must notify the board in writing within ten (10) days of cessation of work and must  
25 further notify the board in writing within ten (10) days of the resumption of the work. Any  
26 failure to provide such notification(s) shall be considered a violation of probation.

27 It is a violation of probation for respondent's probation to remain tolled pursuant to the  
28 provisions of this condition for a total period, counting consecutive and non-consecutive months,

1 exceeding thirty-six (36) months.

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

7 **13. Violation of Probation**

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

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

20 **14. Completion of Probation**

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

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

24 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
25 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
26 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
27 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
28 days following the effective date of this decision and shall immediately thereafter provide written

1 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
2 documentation thereof shall be considered a violation of probation.

3 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a  
4 manager, administrator, member, officer, director, trustee, associate, or partner of any additional  
5 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or  
6 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,  
7 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently  
8 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold  
9 that interest, but only to the extent of that position or interest as of the effective of this decision.  
10 Violation of this restriction shall be considered a violation of probation.

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

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

20 **17. Random Drug Screening**

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

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

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

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

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

22       **18. Work Site Monitor**

23       Within ten (10) days of the effective date of this decision, respondent shall identify a work  
24 site monitor, for prior approval by the board, who shall be responsible for supervising respondent  
25 during working hours. Respondent shall be responsible for ensuring that the work site monitor  
26 reports in writing to the board quarterly. Should the designated work site monitor determine at  
27 any time during the probationary period that respondent has not maintained sobriety, she shall  
28 notify the board immediately, either orally or in writing as directed. Should respondent change

1 employment, a new work site monitor must be designated, for prior approval by the board, within  
2 ten (10) days of commencing new employment. Failure to identify an acceptable initial or  
3 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be  
4 considered a violation of probation.

5 **19. Notification of Departure**

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

10 **20. Abstain from Drugs and Alcohol Use**

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

22 **21. Prescription Coordination and Monitoring of Prescription Use**

23 Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
24 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
25 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
26 history [with the use of alcohol, controlled substances, and/or dangerous drugs, and/or of mental  
27 illness, and/or of gambling addiction] and who will coordinate and monitor any prescriptions for  
28 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved

1 practitioner shall be provided with a copy of the board's [accusation or petition to revoke  
2 probation] and decision. A record of this notification must be provided to the board upon request.  
3 Respondent shall sign a release authorizing the practitioner to communicate with the board about  
4 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or  
5 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding  
6 respondent's compliance with this condition. If any substances considered addictive have been  
7 prescribed, the report shall identify a program for the time limited use of any such substances.  
8 The board may require that the single coordinating physician, nurse practitioner, physician  
9 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive  
10 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,  
11 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,  
12 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist  
13 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit  
14 the selected practitioner or replacement practitioner to the board for approval, or to ensure the  
15 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

16 If at any time an approved practitioner determines that respondent is unable to work safely  
17 as a pharmacy technician, the practitioner shall notify the board immediately by telephone and  
18 follow up by written letter within three (3) working days. Upon notification from the board or its  
19 designee of this determination, respondent shall be automatically suspended and shall not resume  
20 work until notified by the board that work may be resumed.

21 During suspension, respondent shall not enter any pharmacy area or any portion of or any  
22 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other  
23 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and  
24 devices or controlled substances are maintained. Respondent shall not do any act involving drug  
25 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent  
26 manage, administer, or assist any licensee of the board. Respondent shall not have access to or  
27 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled  
28 substances.

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

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

6 ACCEPTANCE

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

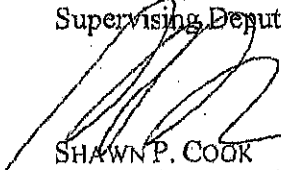
11 DATED: 8/28/13   
 12 JOLEEN MARIE ACOSTA  
 13 Respondent

13 ENDORSEMENT

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

16 Dated: 28 August 2013

17 Respectfully submitted,  
 18 KAMALA D. HARRIS  
 19 Attorney General of California  
 20 MARC D. GREENBAUM  
 21 Supervising Deputy Attorney General

  
 22 SHAWN P. COOK  
 23 Deputy Attorney General  
 24 Attorneys for Complainant

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 28



**Exhibit A**

**Accusation No. 4306**

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 SHAWN P. COOK  
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4 State Bar No. 117851  
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Telephone: (213) 897-9954  
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4306

13 **JOLEEN MARIE ACOSTA**  
10208 Belcher Street  
Downey, CA 90242

**ACCUSATION**

14 Pharmacy Technician Registration No. TCH  
35403

15 Respondent.

16  
17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about December 11, 2000, the Board issued Pharmacy Technician Registration  
23 No. TCH 35403 to Joleen Marie Acosta (Respondent). The Pharmacy Technician Registration  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 January 31, 2014, unless renewed.

26 **JURISDICTION**

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

1 STATUTORY PROVISIONS

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

6 5. Section 490 states, in pertinent part:

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

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

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

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

23 7. Section 4301 states, in pertinent part:

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

27 . . . .

28 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous

1 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
2 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
3 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
4 practice authorized by the license.

5 . . . .

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

23 . . . .

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

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**REGULATORY PROVISION**

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

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

**COST RECOVERY**

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

**FIRST CAUSE FOR DISCIPLINE**

**(Conviction of a Substantially-Related Crime- Alcohol Conviction)**

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, in that Respondent was convicted of a crime substantially related to the qualifications, functions, or duties of a registered pharmacy technician which to a substantial degree evidence her present or potential unfitness to perform the functions authorized by her registration in a manner consistent with the public health, safety, or welfare, as follows:

a. On or about March 01, 2012, after pleading *guilty*, Respondent was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08%, or more, by weight, of alcohol in her blood], in the criminal proceeding entitled *The People of the State of California v. Joleen Marie Acosta* (Super. Ct. Los Angeles County, 2012, No. 2WW00513). The court placed Respondent on probation for a period of 36 months, and fined her. The circumstances surrounding the conviction are that on or about January 08, 2012, a Whittier Police Department Officer, while on duty, during a routine traffic stop, stopped

1 Respondent for driving over the speed limit, and lane straddling, in violation of Vehicle Code  
2 sections 22350 and 21658 (a). The officer made contact with the officer and smelled a strong  
3 odor of alcohol coming from the vehicle. The officer also observed Respondent to have  
4 bloodshot watery eyes, and slurred speech. The officer observed Respondent stumble as she  
5 exited the vehicle, holding onto the vehicle for support. The Respondent admitted to the officer  
6 that she had, "Five or Six Beers to drink." She also stated to the officer, that she could feel the  
7 effects of the alcohol. The Respondent was subsequently arrested and agreed to a blood test with  
8 a result of 0.25% BAC.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Dangerous Use of Alcohol)**

11 11. Respondent is subject to disciplinary action under section 4301, subdivision (h), on  
12 the grounds of unprofessional conduct, in that Respondent used drugs and / or alcohol to an extent  
13 or in a manner dangerous or injurious to herself, any other person, or the public, or to the extent  
14 that such use impairs her ability to conduct with safety to the public the practice authorized by her  
15 license. Complainant refers to, and by this reference incorporates, the allegations set forth above  
16 in paragraph 10, subparagraph (a), inclusive, as though set forth fully.

17 **PRAYER**

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
19 and that following the hearing, the Board issue a decision:

20 1. Revoking or suspending Pharmacy Technician Registration No. TCH 35403, issued  
21 to Joleen Marie Acosta;

22 2. Ordering Joleen Marie Acosta to pay the Board the reasonable costs of the  
23 investigation and enforcement of this case, pursuant to Business and Professions Code section  
24 125.3; and

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26 ///

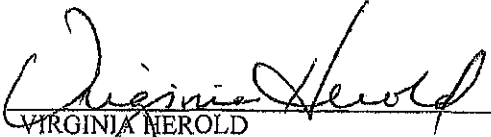
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3. Taking such other and further action as deemed necessary and proper.

DATED: 6/12/13



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

LA2012506738  
accusation.rtf  
4/13/ sc