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

In the Matter of the Accusation Against:

Case No. 4513

CANDICE BARTON

4234 Hatfield Place Los Angeles, CA 90032

Pharmacy Technician Registration No. TCH 96084

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the

Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on July 11, 2014.

It is so ORDERED on July 8, 2014.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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By

STAN C. WEISSER Board President

1	KAMALA D. HARRIS Attorney General of California	
2	MARC D. GREENBAUM Supervising Deputy Attorney General	
3	GILLIAN E. FRIEDMAN	
4	Deputy Attorney General State Bar No. 169207	
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
6	Telephone: (213) 897-2564 Facsimile: (213) 897-2804	
7	Attorneys for Complainant	
8	BOARD OF	RE THE PHARMACY
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10	· · · · · · · · · · · · · · · · · · ·	
11	In the Matter of the Accusation Against:	Case No. 4513
12	CANDICE ELAINE BARTON 4234 Hatfield Pl.	OAH No. 2013080921
13	Los Angeles, CA 90032 Pharmacy Technician Registration No. TCH	STIPULATED SURRENDER OF LICENSE AND ORDER
14	96084	
15	Respondent.	
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18	IT IS HEREBY STIPULATED AND AGE	REED by and between the parties to the above-
19	entitled proceedings that the following matters are true:	
20	PAR	TIES
21	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.	
22	She brought this action solely in her official capacity and is represented in this matter by Kamala	
23	D. Harris, Attorney General of the State of California, by Gillian E. Friedman, Deputy Attorney	
24	General.	
25	2. Candice Elaine Barton (Respondent)	is representing herself in this proceeding and has
26	chosen not to exercise her right to be represented	by counsel.
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		Stipulated Surrender of License (Case No. 4513)

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3. On or about May 26, 2010, the Board of Pharmacy issued Pharmacy Technician
 Registration No. TCH 96084 to Candice Elaine Barton (Respondent). The Pharmacy Technician
 Registration was in full force and effect at all times relevant to the charges brought in Accusation
 No. 4513 and expired on January 31, 2014, and has not been renewed.

JURISDICTION

4. Accusation No. 4513 was filed before the Board of Pharmacy (Board), Department of
Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
statutorily required documents were properly served on Respondent on June 5, 2013. Respondent
timely filed her Notice of Defense contesting the Accusation A copy of Accusation No. 4513 is
attached as Exhibit A and incorporated by reference.

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ADVISEMENT AND WAIVERS

Respondent has carefully read, and understands the charges and allegations in
 Accusation No. 4513. Respondent also has carefully read, and understands the effects of this
 Stipulated Surrender of License and Order.

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

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

CULPABILITY

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8. Respondent admits the truth of each and every charge and allegation in Accusation
No. 4513, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
Registration No. TCH 96084 for the Board's formal acceptance.

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9. Respondent understands that by signing this stipulation she enables the Board to issue
 an order accepting the surrender of her Pharmacy Technician Registration without further
 process.

CONTINGENCY

This stipulation shall be subject to approval by the Board of Pharmacy. Respondent 10. 5 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may 6 communicate directly with the Board regarding this stipulation and surrender, without notice to or 7 participation by Respondent. By signing the stipulation, Respondent understands and agrees that 8 9 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, 10 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this 11 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not 12 be disqualified from further action by having considered this matter. 13

14 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Surrender of License and Order, including Portable Document Format
16 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

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IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 96084, issued
 to Respondent Candice Elaine Barton, is surrendered and accepted by the Board of Pharmacy.

ORDER

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The surrender of Respondent's Pharmacy Technician Registration and the acceptance
 of the surrendered license by the Board shall constitute the imposition of discipline against
 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
 Respondent's license history with the Board of Pharmacy.

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

7 3. Respondent surrenders pharmacy technician license number No. TCH 96084
8 as of the effective date of this decision. Respondent shall relinquish her pharmacy technician
9 license to the board within ten (10) days of the effective date of this decision.

4. If Respondent ever files an application for licensure or a petition for reinstatement in 10 the State of California, the Board shall treat it as a new application for licensure. Respondent 11 may not apply for any license, permit, or registration from the board for three (3) years from the 12 effective date of this decision. Respondent stipulates that should be or she apply for any license 13 from the board on or after the effective date of this decision, all allegations set forth in the 14 accusation shall be deemed to be true, correct and admitted by respondent when the board 15 determines whether to grant or deny the application. Respondent shall satisfy all requirements 16 applicable to that license as of the date the application is submitted to the board, including, but 17 not limited to certification by a nationally recognized body prior to the issuance of a new license. 18 Respondent is required to report this surrender as disciplinary action. 19

20 5. Respondent stipulates that should she apply for any license from the board on or
21 after the effective date of this decision, investigation and prosecution costs in the amount of
22 \$4,527.00 shall be paid to the board prior to issuance of the license.

6. If Respondent should ever apply or reapply for a new license or certification, or
petition for reinstatement of a license, by any other health care licensing agency in the State of
California, all of the charges and allegations contained in Accusation, No. 4513 shall be deemed
to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
other proceeding seeking to deny or restrict licensure.

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Stipulated Surrender of License (Case No. 4513)

1	ACCEPTANCE	
2	I have carefully read the Stipulated Surrender of License and Order. I understand the	
3	stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this	
4	Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to	
5	be bound by the Decision and Order of the Board of Pharmacy.	
6		
7	DATED:	
8	CANDICE ELAINE BARTON Respondent	
9		
10	ENDORSEMENT	
11	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted	
12	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.	
13	Dated: Respectfully submitted,	
14	KAMALA D. HARRIS Attorney General of California	
15	MARC Ď. GREENBAUM Supervising Deputy Attorney General	
16		
17	Gillian E, Friedman	
18	Deputy Attorney General Attorneys for Complainant	
19	Mionicys for Complainain	
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I	Stipulated Surrender of License (Case No. 4513)	

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ACCEPTANCE

I have carefully read the Supulated Surrender of License and Order. I understand the supulation and the offect it will have on my Pharmacy Tochnician Registration. I onter into this Supulated Sugrender of License and Order volunterily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Phurmacy.

DATED: 520114 \$

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CANDICE ELAINE BARTON Respondent

ENDORSEMENT

The foregoing Stipulmed Summeder of License and Order is hereby respectfully submitted for consideration by the Board of Pharmocy of the Department of Consumer Affairs.

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Respectfully submitted,

KAMALA D. HARRIS Automey General of California MARC D. GREENHAUM upervising Daputy Augmey General

GILLIAN E, PRIEDMAN Deputy Allorney General Attorneys for Complainant

Stipulated Surrendor of License (Case No. 4513)

Exhibit A

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Accusation No. 4513

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1 2	KAMALA D. HARRIS Attorney General of California MARC D. GREENBAUM		
3	Supervising Deputy Attorney General GILLIAN E.FRIEDMAN		
4	Deputy Attorney General State Bar No. 169207		
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2564		
6	Telephone: (213) 897-2564 Facsimile: (213) 897-2804		
7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY		
9			
- 10			
- 11	In the Matter of the Accusation Against:	Case No. 4513	
12 13	CANDICE ELAINE BARTON		
13	4234 Hatfield Pl. Los Angeles, CA 90032	ACCUSATION	
15	Pharmacy Technician Registration No. TCH 96084		
16	Respondent.		
17			
18	Complainant alleges:		
19	PAR	TIES	
20	1. Virginia K. Herold (Complainant) b	rings this Accusation solely in her official	
21	capacity as the Executive Officer of the California State Board of Pharmacy.		
22	2. On or about May 26, 2010, the Board of Pharmacy issued Pharmacy Technician		
23	Registration No. TCH 96084 to Candice Elaine Barton (Respondent). The Pharmacy Technician		
24	Registration was in full force and effect at all times relevant to the charges brought herein and		
25	will expire on January 31, 2014, unless renewed.		
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1	JURISDICTION	
2	3. This Accusation is brought before the Board, under the authority of the following	
3	laws. All section references are to the Business and Professions Code unless otherwise indicated.	
4	STATUTORY PROVISIONS	
5	4. Section 118, subdivision (b), provides that the expiration of a license shall not deprive	
6	the Board of jurisdiction to proceed with a disciplinary action during the period within which the	
7	license may be renewed, restored, reissued or reinstated.	
8	5. Section 490 states, in pertinent part:	
9	"(a) In addition to any other action that a board is permitted to take against a licensee, a	
10	board may suspend or revoke a license on the ground that the licensee has been convicted of a	
11	crime, if the crime is substantially related to the qualifications, functions, or duties of the business	1
12	or profession for which the license was issued.	
13	"(b) Notwithstanding any other provision of law, a board may exercise any authority to	
14	discipline a licensee for conviction of a crime that is independent of the authority granted under	
15	subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties	
16	of the business or profession for which the licensee's license was issued.	
17	"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a	
18	conviction following a plea of nolo contendere. Any action that a board is permitted to take	
19	following the establishment of a conviction may be taken when the time for appeal has elapsed, or	
20	the judgment of conviction has been affirmed on appeal, or when an order granting probation is	
21	made suspending the imposition of sentence, irrespective of a subsequent order under the	
22	provisions of Section 1203.4 of the Penal Code"	
23	6. Section 4300 provides that every license issued by the Board is subject to discipline,	
24	including suspension or revocation.	ĺ
25	7. Section 4301 of the Code states:	
26	"The board shall take action against any holder of a license who is guilty of unprofessional	
27	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
28	Unprofessional conduct shall include, but is not limited to, any of the following:	

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"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
 whether the act is a felony or misdemeanor or not."

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

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REGULATORY PROVISIONS

8. California Code of Regulations, title 16, section 1770 states, in pertinent part:
 "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

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	<u>COST RECOVERY</u>	
4	9. Section 125.3 provides that the Board may request the administrative law judge to	
5	direct a licentiate found to have committed a violation or violations of the licensing act to pay a	
6	sum not to exceed the reasonable costs of the investigation and enforcement of the case.	
7	FIRST CAUSE FOR DISCIPLINE	
8	(Conviction of a Substantially Related Crime)	
9	10. Respondent is subject to disciplinary action under sections 4300, 4301,	
10	subdivision (1), and 490, in conjunction with California Code of Regulations, title 16, section	
11	1770, in that Respondent was convicted of a crime substantially related to the qualifications,	
12	functions, and duties of a pharmacy technician.	
13	a. On or about February 23, 2012, after pleading no contest, Respondent was convicted	
14	of one felony count of violating Penal Code section 243(d) [battery on a person causing serious	
15	bodily injury] in the criminal proceeding entitled The People of the State of California vs.	
16	Candice Elaine Barton (Super. Ct. Los Angeles County, 2011, No. BA389824). The Court	
17	sentenced Respondent to 365 days in jail, payment of fines, placed her on three (3) years	
18	probation, and ordered her to stay away from victim HV.	
19	b. The circumstances surrounding the conviction are that on or about	
20	September 20, 2011, Respondent was involved in a physical altercation involving the service of a	
21	child custody subpoena that resulted in bodily harm to victim HV. Respondent came behind	
22	victim HV and hit him in the back with an unknown object causing injury.	
23	SECOND CAUSE FOR DISCIPLINE	
24	(Unprofessional Conduct / Moral Turpitude)	
25	11. Respondent is subject to disciplinary action under sections 4300 and 4301,	
26	subdivision (f) in that Respondent committed and an act of unprofessional conduct in that she	
27	engaged in Moral Turpitude. Complainant refers to, and by this reference incorporates, the	
28	allegations set forth above in paragraph 10, inclusive, as though set forth fully.	

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1	DISCIPLINARY CONSIDERATIONS	
2	12. To determine the degree of discipline, if any, to be imposed on Respondent,	
3	Complainant alleges the following:	
4	a. On or about July 2, 2008, after pleading nolo contendere, Respondent was convicted	
5	of one misdemeanor count of violating Penal Code section 487A [grand theft], in the criminal	
6	proceedings entitled The People of the State of California v. Candice Elaine Barton (Super. Ct.	
7	Los Angeles County, 2008, No. 8CA07578). The Court placed Respondent on 18 months	
8	probation, and ordered Respondent to pay restitution and fines. The Court further ordered	
9	Respondent to enroll in and complete seven (7) days of the Cal Trans program.	
10	b. The circumstances surrounding the conviction occurred on or about May 8, 2008,	
11	where Respondent was arrested for stealing property from her former employer. Respondent did	
12	not disclose the violation in her application.	
13	PRAYER	
14	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
15	and that following the hearing, the Board issue a decision:	
16	1. Revoking or suspending Pharmacy Technician Registration No. TCH 96084, issued	
17	to Candice Elaine Barton;	
18	2. Ordering Candice Elaine Barton to pay the Board the reasonable costs of the	
19	investigation and enforcement of this case, pursuant to section 125.3; and	
20	3. Taking such other and further action as deemed necessary and proper.	
21		
22	DATED: 4/19/13 Unginia Herdy	
23	Executive Officer California State Board of Pharmacy	
24	. State of California Complainant	
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