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

In the Matter of the Petition to Revoke
Probation Against:

Case No. 4546

MOHAMMAD ALI BAZYAR
4977 Edgar Court #3
San Jose, CA 95118
Pharmacy Technician Registration No. TCH
104369

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about April 8, 2013, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Petition to Revoke Probation No. 4546 against Mohammad Ali Bazyar (Respondent) before the Board of Pharmacy. (Petition to Revoke Probation attached as Exhibit A.)
2. On or about May 31, 2012, the Board of Pharmacy (Board) issued Pharmacy Technician Registration No. TCH 104369 to Respondent. The Pharmacy Technician Registration expires on September 30, 2013, Unless renewed.

1 3. On or about April 17, 2013, Respondent was served by Certified and First Class Mail
2 copies of the Petition to Revoke Probation No. 4546, Statement to Respondent, Notice of
3 Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,
4 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
5 Professions Code section 4100, is required to be reported and maintained with the Board.
6 Respondent's address of record was and is:

7 4977 Edgar Court #3
8 San Jose, CA 95118.

9 4. Service of the Petition to Revoke Probation was effective as a matter of law under the
10 provisions of Government Code section 11505, subdivision (c) and/or Business & Professions
11 Code section 124.

12 5. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts
15 of the accusation not expressly admitted. Failure to file a notice of defense shall
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
17 may nevertheless grant a hearing.

18 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
19 of the Petition to Revoke Probation, and therefore waived his right to a hearing on the merits of
20 Petition to Revoke Probation No. 4546.

21 7. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions
24 or upon other evidence and affidavits may be used as evidence without any notice to
25 respondent.

26 8. Pursuant to its authority under Government Code section 11520, the Board finds
27 Respondent is in default. The Board will take action without further hearing and, based on the
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
taking official notice of all the investigatory reports, exhibits and statements contained therein on
file at the Board's offices regarding the allegations contained in Petition to Revoke Probation No.

1 4546, finds that the charges and allegations in Petition to Revoke Probation No. 4546, are
2 separately and severally, found to be true and correct by clear and convincing evidence.

3 DETERMINATION OF ISSUES

4 1. Based on the foregoing findings of fact, Respondent Mohammad Ali Bazyar has
5 subjected his Pharmacy Technician Registration No. TCH 104369 to discipline.

6 2. The agency has jurisdiction to adjudicate this case by default.

7 3. The Board of Pharmacy is authorized to revoke Respondent's probation and revoke
8 Respondent's Pharmacy Technician Registration based upon the following violations of probation
9 alleged in the Petition to Revoke Probation which are supported by the evidence contained in the
10 Default Decision Evidence Packet in this case.:

11 a. Respondent's probation is subject to revocation in that he failed to comply with
12 Probation Term and Condition 3. Respondent failed to submit timely quarterly reports to the
13 Board. No reports have been received by the Board since the start of probation.

14 b. Respondent's probation is subject to revocation in that he failed to comply with
15 Probation Term and Condition 4. Respondent failed to appear as requested for probation office
16 conferences with the Board on two separate occasions: June 28, 2012 and July 26, 2012.
17 Respondent did not provide notification to Board staff regarding his failure to appear at each
18 conference.

19 c. Respondent's probation is subject to revocation in that he failed to comply with
20 Probation Term and Condition 16. Respondent failed to report daily and submit to testing as
21 scheduled in the random drug screening program.

22 d. Respondent's probation is subject to revocation in that he failed to comply with
23 Probation Term and Condition 20. Respondent has not established a practitioner as his
24 prescription coordinator and monitor.

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ORDER

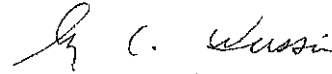
IT IS SO ORDERED that Probation previously ordered in revoked and Pharmacy Technician Registration No. TCH 104369, heretofore issued to Respondent Mohammad Ali Bazyar, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on October 4, 2013.

It is so ORDERED ON September 4, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STANLEY C. WEISSER
Board President

default decision_LIC.rtf
DOJ Matter ID:SF2013403826

Attachment:
Exhibit A: Petition to Revoke Probation

Exhibit A

Petition to Revoke Probation

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Petition to Revoke
11 Probation Against,

Case No. 4546

12 **MOHAMMAD ALI BAZYAR**
13 **4977 Edgar Court #3**
San Jose, CA 95118
14 **Pharmacy Technician Registration No. TCH**
104369

PETITION TO REVOKE PROBATION

15
16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about May 31, 2012, the Board of Pharmacy issued Pharmacy Technician
24 License Number TCH 104369 to Mohammad Ali Bazyar (Respondent). The Pharmacy
25 Technician License expires on September 30, 2013, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of the Statement of Issues Against
27 Mohammad Ali Bazyar," Case No. 4091, the Board of Pharmacy issued a decision, effective May
28 25, 2012, whereby Respondent was to be issued a probationary license upon satisfaction of

1 meeting all statutory and regulatory requirements. On or about May 31, 2012, Respondent was
2 issued Pharmacy Technician License No. TCH 104369, which was immediately revoked. The
3 revocation was stayed, and Respondent was placed on probation for a period of three (3) years
4 with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
5 incorporated by reference.

6 JURISDICTION

7 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
8 Department of Consumer Affairs, under the authority of the following laws. All section
9 references are to the Business and Professions Code unless otherwise indicated.

10 5. Section 4300 of the Code states:

11 "(a) Every license issued may be suspended or revoked.

12 6. Section 4011 of the Code provides that the Board shall administer and enforce both
13 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
14 Act [Health & Safety Code, § 11000 et seq.].

15 FACTUAL BACKGROUND

16 7. On or about January 10, 2011, the Board denied Mohammad Bazzyar's application for
17 registration as a pharmacy technician. Respondent was alleged to be in possession of a controlled
18 substance, Cocaine. Respondent appealed the denial.

19 8. In an Order effective May 25, 2012, the Board adopted a Stipulated Settlement and
20 Disciplinary Order in a case entitled "In the Matter of the Statement of Issues Against
21 Mohammad Ali Bazzyar, Case No. 4091. Pursuant to the Disciplinary Order, Respondent was
22 issued Pharmacy Technician License No. TCH 104369 which was immediately revoked.
23 However, the revocation was stayed, and the Respondent was placed on probation for three (3)
24 years subject to certain terms and conditions. Respondent failed to follow the terms and
25 conditions of probation as described below.

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1 FIRST CAUSE TO REVOKE PROBATION

2 **(Failure to Report Quarterly to the Board)**

3 9. At all times after the effective date of the Decision and Order imposing probation on
4 Respondent's License, Term and Condition 3 of that Order required in pertinent part:

5 **3. Report to the Board.** Probationer shall report to the Board quarterly, on a
6 schedule as directed by the board or its designee. The report shall be made either in
7 person or in writing, as directed. Among other requirements, respondent shall state
8 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.

9 10. Respondent's probation is subject to revocation in that he failed to comply with
10 Term and Condition 3. Respondent failed to submit timely quarterly reports to the Board. No
11 reports have been received by the Board since the start of probation.

12 SECOND CAUSE TO REVOKE PROBATION

13 **(Failure to Appear for Interviews with the Board Upon Request)**

14 11. At all times after the effective date of the Decision and Order imposing probation on
15 Respondent's License, Term and Condition 4 of that Order required:

16 **4. Interview with the Board.** Upon receipt of reasonable notice, Respondent shall
17 appear in person for interviews with the Board or its designee, at such intervals and
18 locations as are determined by the Board or its designee. Failure to appear for any
19 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.

20
21 12. Respondent's probation is subject to revocation in that he failed to comply with
22 Term and Condition 4. Respondent failed to appear as requested for probation office
23 conferences with the Board on two separate occasions: June 28, 2012 and July 26, 2012.
24 Respondent did not provide notification to Board staff regarding his failure to appear at each
25 conference.

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THIRD CAUSE TO REVOKE PROBATION

(Failure to Submit to Random Drug Screening)

13. At all times after the effective date of the Decision and Order imposing probation on Respondent's License, Term and Condition 16 of that Order required in pertinent part:

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

14. Respondent's probation is subject to revocation in that he failed to comply with Term and Condition 16. Respondent failed to report daily and submit to testing as scheduled in the random drug screening program.

FOURTH CAUSE TO REVOKE PROBATION

(Failure to Establish a Prescription Coordinator/Monitor)

15. At all times after the effective date of the Decision and Order imposing probation on Respondent's License, Term and Condition 20 of that Order required in pertinent part:

20. Prescription Coordination and Monitoring of Prescription Use. Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the respondent's history with the use of alcohol and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs.

...

Failure to timely submit the selected practitioner or replacement practitioner to the board for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

Respondent's probation is subject to revocation in that he failed to comply with Term and Condition 20. Respondent has not established a practitioner as his prescription coordinator and monitor.

PRAYER

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

1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 4091 and imposing the disciplinary order that was stayed thereby revoking Pharmacy Technician Registration No. TCH 104369 issued to Mohammad Ali Bazyar;

2. Revoking or suspending Pharmacy Technician Registration No. TCH 104369, issued to Mohammad Ali Bazyar;

3.

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

DATED: 4/8/13



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

SF2013403826
pet revoke prob.rtf

Exhibit A

Decision and Order

Board of Pharmacy Case No. 4091

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

In the Matter of the Statement of Issues Against:

Case No. 4091

MOHAMMAD ALI BAZYAR
4977 Edgar Ct. #3
San Jose, CA 95118

Pharmacy Technician License

Respondent.

DECISION AND ORDER

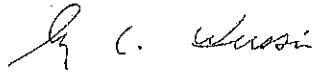
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 25, 2012.

It is so ORDERED on April 25, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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Deputy Attorney General
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Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Statement of Issues
11 Against:
12 **MOHAMMAD ALI BAZYAR**
4977 Edgar Ct #3
13 San Jose, CA 95118
14 **Applicant for Registration as a Pharmacy**
Technician
15
16 Respondent.

Case No. 4091

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

20 PARTIES

- 21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Justin R. Surber, Deputy Attorney
24 General.
25 2. Respondent Mohammad Ali Bazyar (Respondent) is representing himself in this
26 proceeding and has chosen not to exercise his right to be represented by counsel.
27
28

1 3. In or about April 2010, Respondent filed an application dated April 13, 2010, with the
2 Board of Pharmacy to obtain registration as a Pharmacy Technician. The application was denied
3 on or about January 10, 2010.

4 JURISDICTION

5 4. Statement of Issues No. 4091 was filed before the Board of Pharmacy (Board),
6 Department of Consumer Affairs, and is currently pending against Respondent. The Statement of
7 Issues and all other statutorily required documents were properly served on Respondent on
8 December 8, 2011.

9 5. A copy of Statement of Issues No. 4091 is attached as exhibit A and incorporated
10 herein by reference.

11 ADVISEMENT AND WAIVERS

12 6. Respondent has carefully read, and understands the charges and allegations in
13 Statement of Issues No. 4091. Respondent has also carefully read, and understands the effects of
14 this Stipulated Settlement and Disciplinary Order.

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

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

24 CULPABILITY

25 9. Respondent admits the truth of each and every charge and allegation in Statement of
26 Issues No. 4091.

27
28

1 Pharmacy Technician. The registration shall be and immediately revoked. However, the
2 revocation will be stayed and the Respondent will be placed on three (3) years probation on the
3 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 he 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 he 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 controlled

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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 pharmacy technician 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 his 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 4091 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 his 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 4091 and the terms and conditions
10 imposed thereby. It shall be respondent's responsibility to ensure that his 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 his direct supervisor, pharmacist-in-charge and owner at every pharmacy
14 of the terms and conditions of the decision in case number 4091 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 his direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that he has read the decision in case number 4091
21 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
22 that his 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,
27 part-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

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

3 **7. Probation Monitoring Costs**

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

8 **8. Status of License**

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

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

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

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

25 Upon acceptance of the surrender, respondent shall relinquish his pharmacy technician
26 license to the board within ten (10) days of notification by the board that the surrender is
27 accepted. Respondent may not reapply for any license, permit, or registration from the board for
28 three (3) years from the effective date of the surrender. Respondent shall meet all requirements

1 applicable to the license sought as of the date the application for that license is submitted to the
2 board.

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

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

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

12 **11. Tolling of Probation**

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

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

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

27 "Cessation of work" means calendar month during which respondent is not
28 working for at least 20 hours as a pharmacy technician, as defined in Business and

1 Professions Code section 4115. "Resumption of work" means any calendar month
2 during which respondent is working as a pharmacy technician for at least 20 hours as
3 a pharmacy technician as defined by Business and Professions Code section 4115.

4 **12. Violation of Probation**

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

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

17 **13. Completion of Probation**

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

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

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

28 ///

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

2 In the event respondent has a positive test for alcohol or for any drug not lawfully
3 prescribed by a licensed practitioner as part of a documented medical treatment, respondent shall,
4 within 30 days of the positive test, begin regular attendance at a recognized and established
5 substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Narcotics
6 Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend
7 at least one group meeting per week unless otherwise directed by the board or its designee.
8 Respondent shall continue regular attendance and submit signed and dated documentation
9 confirming attendance with each quarterly report for the duration of probation. Failure to attend
10 or submit documentation thereof shall be considered a violation of probation.

11 **16. Random Drug Screening**

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

28 During suspension, respondent shall not enter any pharmacy area or any portion of or any

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

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

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

13 **17. Work Site Monitor**

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

24 **18. Notification of Departure**

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

1 **19. Abstain from Drugs and Alcohol Use**

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

13 **20. Prescription Coordination and Monitoring of Prescription Use**

14 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
16 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
17 history with the use of alcohol and who will coordinate and monitor any prescriptions for
18 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved
19 practitioner shall be provided with a copy of the board's Accusation and decision. A record of
20 this notification must be provided to the board upon request. Respondent shall sign a release
21 authorizing the practitioner to communicate with the board about respondent's treatment(s). The
22 coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the
23 board on a quarterly basis for the duration of probation regarding respondent's compliance with
24 this condition. If any substances considered addictive have been prescribed, the report shall
25 identify a program for the time limited use of any such substances. The board may require that
26 the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a
27 specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent,
28 for any reason, cease supervision by the approved practitioner, respondent shall notify the board

1 immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement
2 physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the
3 board or its designee for its prior approval. Failure to timely submit the selected practitioner or
4 replacement practitioner to the board for approval, or to ensure the required reporting thereby on
5 the quarterly reports, shall be considered a violation of probation.

6 If at any time an approved practitioner determines that respondent is unable to practice
7 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
8 telephone and follow up by written letter within three (3) working days. Upon notification from
9 the board or its designee of this determination, respondent shall be automatically suspended and
10 shall not resume practice until notified by the board that practice may be resumed.

11 During suspension, respondent shall not enter any pharmacy area or any portion of the
12 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
13 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
14 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
15 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
16 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
17 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
18 and controlled substances. Respondent shall not resume practice until notified by the board.

19 During suspension, respondent shall not engage in any activity that requires the
20 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
21 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
22 designated representative for any entity licensed by the board.

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

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

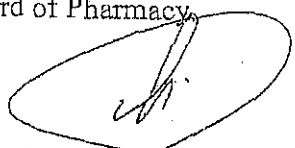
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ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on registration as a pharmacy technician. 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: March 10/9/2012

MOHAMMAD ALI BAZYAR
Respondent

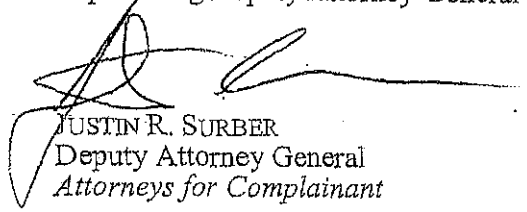
ENDORSEMENT

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

Dated: 3/21/12

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



JUSTIN R. SURBER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 4091

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
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6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

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

Case No. 4091

12 MOHAMMAD ALI BAZYAR
4977 Edgar Ct #3
13 San Jose, CA 95118

STATEMENT OF ISSUES

14 Applicant for Registration as a Pharmacy
15 Technician

Respondent.

16
17
18 Complainant alleges:

19 PARTIES

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

22 2. In 2010, the Board of Pharmacy, Department of Consumer Affairs received an
23 application for Registration as a Pharmacy Technician from Mohammad Ali Bazyar
24 (Respondent). On or about April 13, 2010, Mohammad Ali Bazyar certified under penalty of
25 perjury to the truthfulness of all statements, answers, and representations in the application. The
26 Board denied the application on January 10, 2011.

27 ///

28 ///

JURISDICTION

1
2 3. This Statement of Issues is brought before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states:

6 "... (c) The board may refuse a license to any applicant guilty of unprofessional conduct.
7 The board may, in its sole discretion, issue a probationary license to any applicant for a license
8 who is guilty of unprofessional conduct and who has met all other requirements for licensure.
9 The board may issue the license subject to any terms or conditions not contrary to public policy,
10 including, but not limited to, the following:

11 "(1) Medical or psychiatric evaluation.

12 "(2) Continuing medical or psychiatric treatment.

13 "(3) Restriction of type or circumstances of practice.

14 "(4) Continuing participation in a board-approved rehabilitation program.

15 "(5) Abstention from the use of alcohol or drugs.

16 "(6) Random fluid testing for alcohol or drugs.

17 "(7) Compliance with laws and regulations governing the practice of pharmacy.

18 "..."

19 5. Section 4301 of the Code states:

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

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

25 6. Section 480 of the Code states:

26 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
27 one of the following:

1 “(3) (A) Done any act that if done by a licentiate of the business or profession in question,
2 would be grounds for suspension or revocation of license.

3 7. Health and Safety Code section 11350(a) states:

4 “(a) Except as otherwise provided in this division, every person who possesses (1) any
5 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
6 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
7 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
8 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
9 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
10 licensed to practice in this state, shall be punished by imprisonment in the state prison.”

11

12

DRUGS INVOLVED

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8. Cocaine is a Schedule II controlled substance as designated by Health and Safety
Code section 11055(b) and a dangerous drug as designated by Business and Professions Code
section 4022. It is a narcotic drug.

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CAUSE FOR DENIAL OF APPLICATION

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(Violation of Drug Laws)

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9. Respondent's application is subject to denial under sections 480(a)(3) and 4300(c) of
the Code in conjunction with section 4301(j) of the Code in that Respondent violated a California
statute regulating controlled substances and dangerous drugs. On or about May 31, 2010,
Respondent possessed cocaine in violation of Health and Safety Code section 11350.

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PRAYER

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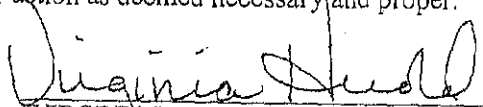
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
and that following the hearing, the Board of Pharmacy issue a decision:

1. Denying the application of Mohammad Ali Bazyar for registration as a Pharmacy
Technician;

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

DATED: 11/9/11



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

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