



**California State Board of Pharmacy**  
 1625 N. Market Blvd, N219, Sacramento, CA 95834  
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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY  
 DEPARTMENT OF CONSUMER AFFAIRS  
 GOVERNOR EDMUND G. BROWN JR.

**APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE**

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>TERRY HIBBS</u>	Case No. <u>AC4616</u>
Address of Record: <u>10218 STONEHURST DR.</u> <u>ESCONDIDO, CA 92026</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC4616, I hereby request to surrender my license, License No. 41315. 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 pocket and wall 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 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, including any outstanding costs.

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.

[Signature]  
 Applicant's Signature

[Signature]  
 Executive Officer's Approval

3/14/2016  
 Date

3/12/16  
 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. 4616

**TERRY L. HIBBS**  
10218 Stonehurst Drive  
Escondido, CA 92026

Pharmacist License No. RPH 41315

Respondent.

**DECISION AND ORDER**

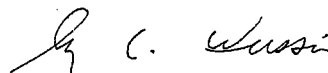
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on July 9, 2014.

It is so ORDERED on July 2, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



STAN C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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6 San Diego, CA 92186-5266  
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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4616

12 **TERRY L. HIBBS**  
13 **10218 Stonehurst Drive**  
14 **Escondido, CA 92026**

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

15 **Pharmacist License No. RPH 41315**

16 Respondent.

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 (Board). She brought this action solely in her official capacity and is represented in this matter by  
23 Kamala D. Harris, Attorney General of the State of California, by Rita M. Lane, Deputy Attorney  
24 General.

25 2. Respondent Terry L. Hibbs is represented in this proceeding by attorney David M.  
26 Balfour of DiCaro, Coppo & Popcke, whose address is: 2780 Gateway Road, Carlsbad, CA  
27 92008.

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1           3.     On or about September 26, 1987, the Board issued Pharmacist License No. RPH  
2 41315 to Terry L. Hibbs (Respondent). The Pharmacist License was in full force and effect at all  
3 times relevant to the charges brought in Accusation No. 4616 and will expire on September 30,  
4 2015, unless renewed.

5   JURISDICTION

6           4.     Accusation No. 4616 was filed before the Board, Department of Consumer Affairs,  
7 and is currently pending against Respondent. The Accusation and all other statutorily required  
8 documents were properly served on Respondent on July 26, 2013. Respondent timely filed his  
9 Notice of Defense contesting the Accusation.

10          5.     A copy of Accusation No. 4616 is attached as Exhibit A and incorporated herein by  
11 reference.

12   ADVISEMENT AND WAIVERS

13          6.     Respondent has carefully read, fully discussed with counsel, and understands the  
14 charges and allegations in Accusation No. 4616. Respondent has also carefully read, fully  
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
16 Order.

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

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

25   CULPABILITY

26          9.     Respondent admits the truth of each and every charge and allegation in Accusation  
27 No. 4616.

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1 10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees  
2 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

3 CONTINGENCY

4 11. This stipulation shall be subject to approval by the Board. Respondent understands  
5 and agrees that counsel for Complainant and the staff of the Board may communicate directly  
6 with the Board regarding this stipulation and settlement, without notice to or participation by  
7 Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he  
8 may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board  
9 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,  
10 the Stipulated Settlement 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 12. The parties understand and agree that Portable Document Format (PDF) and facsimile  
14 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
15 signatures thereto, shall have the same force and effect as the originals.

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

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

25 DISCIPLINARY ORDER

26 IT IS HEREBY ORDERED that Pharmacist License No. RPH 41315 issued to Respondent  
27 Terry L. Hibbs is revoked. However, the revocation is stayed and Respondent is placed on  
28 probation for 5 years on the following terms and conditions.

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**1. Suspension**

As part of probation, respondent is suspended from the practice of pharmacy for 45 days. Respondent shall be given 45 days credit for the suspension already served.

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

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the Board.

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

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

**2. Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment

- 1 • a conviction of any crime
- 2 • discipline, citation, or other administrative action filed by any state or federal agency
- 3 which involves respondent's Pharmacist license or which is related to the practice of
- 4 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 5 for any drug, device or controlled substance.

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

7 **3. Report to the Board**

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

16 **4. Interview with the Board**

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

22 **5. Cooperate with Board Staff**

23 Respondent shall cooperate with the Board's inspection program and with the Board's  
24 monitoring and investigation of respondent's compliance with the terms and conditions of his  
25 probation. Failure to cooperate shall be considered a violation of probation.

26 **6. Continuing Education**

27 Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
28 pharmacist as directed by the Board or its designee.

1           7.    **Notice to Employers**

2           During the period of probation, respondent shall notify all present and prospective  
3 employers of the decision in case number 4616 and the terms, conditions and restrictions imposed  
4 on respondent by the decision, as follows:

5           Within 30 days of the effective date of this decision, and within 15 days of respondent  
6 undertaking any new employment, respondent shall cause his direct supervisor, pharmacist-in-  
7 charge (including each new pharmacist-in-charge employed during respondent's tenure of  
8 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 4616, and terms and conditions imposed  
10 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
11 submit timely acknowledgment(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 entity  
14 licensed by the Board of the terms and conditions of the decision in case number 4616 in advance  
15 of the respondent commencing work at each licensed entity. A record of this notification must be  
16 provided to the Board upon request.

17           Furthermore, within 30 days of the effective date of this decision, and within 15 days of  
18 respondent undertaking any new employment by or through a pharmacy employment service,  
19 respondent shall cause his direct supervisor with the pharmacy employment service to report to  
20 the Board in writing acknowledging that he has read the decision in case number 4616 and the  
21 terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his  
22 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 acknowledgments 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, relief or pharmacy management service as a pharmacist or any

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1 position for which a pharmacist license is a requirement or criterion for employment,  
2 whether the respondent is an employee, independent contractor or volunteer.

3 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**  
4 **Designated Representative-in-Charge, or Serving as a Consultant**

5 During the period of probation, respondent shall not supervise any intern pharmacist, be the  
6 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the Board  
7 nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
8 unauthorized supervision responsibilities shall be considered a violation of probation.

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the  
11 Board its costs of investigation and prosecution in the amount of \$1,785.00. Failure to pay costs  
12 by the deadline(s) as directed by the Board shall be considered a violation of probation.

13 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
14 reimburse the Board its costs of investigation and prosecution.

15 **10. Probation Monitoring Costs**

16 Respondent shall pay any costs associated with probation monitoring as determined by the  
17 Board each and every year of probation. Such costs shall be payable to the Board on a schedule  
18 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed  
19 shall be considered a violation of probation.

20 **11. Status of License**

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

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

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1           **12. License Surrender While on Probation/Suspension**

2           Following the effective date of this decision, should respondent cease practice due to  
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
4 respondent may tender his license to the Board for surrender. The Board or its designee shall  
5 have the discretion whether to grant the request for surrender or take any other action it deems  
6 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent  
7 will no longer be subject to the terms and conditions of probation. This surrender constitutes a  
8 record of discipline and shall become a part of the respondent's license history with the Board.

9           Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to  
10 the Board within 10 days of notification by the Board that the surrender is accepted. Respondent  
11 may not reapply for any license from the Board for 3 years from the effective date of the  
12 surrender. Respondent shall meet all requirements applicable to the license sought as of the date  
13 the application for that license is submitted to the Board, including any outstanding costs.

14           **13. Notification of a Change in Name, Residence Address, Mailing Address or**  
15 **Employment**

16           Respondent shall notify the Board in writing within 10 days of any change of employment.  
17 Said notification shall include the reasons for leaving, the address of the new employer, the name  
18 of the supervisor and owner, and the work schedule if known. Respondent shall further notify the  
19 Board in writing within 10 days of a change in name, residence address, mailing address, or  
20 phone number.

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

23           **14. Tolling of Probation**

24           Except during periods of suspension, respondent shall, at all times while on probation, be  
25 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any  
26 month during which this minimum is not met shall toll the period of probation, i.e., the period of  
27 probation shall be extended by one month for each month during which this minimum is not met.

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1 During any such period of tolling of probation, respondent must nonetheless comply with all  
2 terms and conditions of probation.

3 Should respondent, regardless of residency, for any reason (including vacation) cease  
4 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,  
5 respondent must notify the Board in writing within 10 days of the cessation of practice, and must  
6 further notify the Board in writing within 10 days of the resumption of practice. Any failure to  
7 provide such notification(s) shall be considered a violation of probation.

8 It is a violation of probation for respondent's probation to remain tolled pursuant to the  
9 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
10 exceeding 36 months.

11 "Cessation of practice" means any calendar month during which respondent is  
12 not practicing as a pharmacist for at least 40 hours, as defined by Business and  
13 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
14 month during which respondent is practicing as a pharmacist for at least 40 hours as a  
15 pharmacist as defined by Business and Professions Code section 4000 et seq.

16 **15. Violation of Probation**

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

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

1           **16. Completion of Probation**

2           Upon written notice by the Board or its designee indicating successful completion of  
3 probation, respondent's license will be fully restored.

4           **17. Pharmacists Recovery Program (PRP)**

5           Within 30 days of the effective date of this decision, respondent shall contact the  
6 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,  
7 successfully participate in, and complete the treatment contract and any subsequent addendums as  
8 recommended and provided by the PRP and as approved by the Board or its designee. The costs  
9 for PRP participation shall be borne by the respondent.

10           If respondent is currently enrolled in the PRP, said participation is now mandatory and as of  
11 the effective date of this decision is no longer considered a self-referral under Business and  
12 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete  
13 his current contract and any subsequent addendums with the PRP.

14           Failure to timely contact or enroll in the PRP, or successfully participate in and complete  
15 the treatment contract and/or any addendums, shall be considered a violation of probation.

16           Probation shall be automatically extended until respondent successfully completes the PRP.  
17 Any person terminated from the PRP program shall be automatically suspended by the Board.  
18 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

19           Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a  
20 licensed practitioner as part of a documented medical treatment shall result in the automatic  
21 suspension of practice by respondent and shall be considered a violation of probation.  
22 Respondent may not resume the practice of pharmacy until notified by the Board in writing.

23           During suspension, respondent shall not enter any pharmacy area or any portion of the  
24 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
25 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices  
26 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act  
27 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient  
28 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the

1 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
2 and controlled substances. Respondent shall not resume practice until notified by the Board.

3 During suspension, respondent shall not engage in any activity that requires the  
4 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
5 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
6 designated representative for any entity licensed by the Board.

7 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
8 licensed premises in which he holds an interest at the time this decision becomes effective unless  
9 otherwise specified in this order.

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

11 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not  
12 timely paid to the PRP shall constitute a violation for probation. The Board will collect unpaid  
13 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

14 **18. Random Drug Screening**

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

1 automatic suspension of practice of pharmacy by respondent. Respondent may not resume the  
2 practice of pharmacy until notified by the Board in writing.

3 During suspension, respondent shall not enter any pharmacy area or any portion of the  
4 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
5 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices  
6 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act  
7 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient  
8 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the  
9 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
10 and controlled substances. Respondent shall not resume practice until notified by the Board.

11 During suspension, respondent shall not engage in any activity that requires the  
12 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
13 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
14 designated representative for any entity licensed by the Board.

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

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

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

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

1 not supported by the documentation timely provided, and/or any physical proximity to persons  
2 using illicit substances, shall be considered a violation of probation.

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

4 Within 30 days of the effective date of this decision, respondent shall submit to the Board,  
5 for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
6 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
7 history with the use of alcohol and who will coordinate and monitor any prescriptions for  
8 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved  
9 practitioner shall be provided with a copy of the Board's Accusation and decision. A record of  
10 this notification must be provided to the Board upon request. Respondent shall sign a release  
11 authorizing the practitioner to communicate with the Board about respondent's treatment(s). The  
12 coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the  
13 Board on a quarterly basis for the duration of probation regarding respondent's compliance with  
14 this condition. If any substances considered addictive have been prescribed, the report shall  
15 identify a program for the time limited use of any such substances. The Board may require that  
16 the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a  
17 specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent,  
18 for any reason, cease supervision by the approved practitioner, respondent shall notify the Board  
19 immediately and, within 30 days of ceasing treatment, submit the name of a replacement  
20 physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the  
21 Board or its designee for its prior approval. Failure to timely submit the selected practitioner or  
22 replacement practitioner to the Board for approval, or to ensure the required reporting thereby on  
23 the quarterly reports, shall be considered a violation of probation.

24 If at any time an approved practitioner determines that respondent is unable to practice  
25 safely or independently as a pharmacist, the practitioner shall notify the Board immediately by  
26 telephone and follow up by written letter within 3 working days. Upon notification from the  
27 Board or its designee of this determination, respondent shall be automatically suspended and shall  
28 not resume practice until notified by the Board that practice may be resumed.

1 During suspension, respondent shall not enter any pharmacy area or any portion of the  
2 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
3 drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices  
4 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act  
5 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient  
6 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the  
7 Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs  
8 and controlled substances. Respondent shall not resume practice until notified by the Board.

9 During suspension, respondent shall not engage in any activity that requires the  
10 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
11 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
12 designated representative for any entity licensed by the Board.

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

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

17 **21. Supervised Practice**

18 During the period of probation, respondent shall practice only under the supervision of a  
19 licensed pharmacist not on probation with the Board. Upon and after the effective date of this  
20 decision, respondent shall not practice pharmacy and his license shall be automatically suspended  
21 until a supervisor is approved by the Board or its designee. The supervision shall be, as required  
22 by the Board or its designee, either:

23 Continuous – At least 75% of a work week

24 Substantial - At least 50% of a work week

25 Partial - At least 25% of a work week

26 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

27 Within 30 days of the effective date of this decision, respondent shall have his supervisor  
28 submit notification to the Board in writing stating that the supervisor has read the decision in case



1 number 4616 and is familiar with the required level of supervision as determined by the Board or  
2 its designee. It shall be the respondent's responsibility to ensure that his employer(s), pharmacist-  
3 in-charge and/or supervisor(s) submit timely acknowledgement(s) to the Board. Failure to cause  
4 the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the  
5 Board shall be considered a violation of probation.

6 If respondent changes employment, it shall be the respondent's responsibility to ensure that  
7 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to  
8 the Board. Respondent shall have his new supervisor, within 15 days after employment  
9 commences, submit notification to the Board in writing stating the direct supervisor and  
10 pharmacist-in-charge have read the decision in case number 4616 and is familiar with the level of  
11 supervision as determined by the Board. Respondent shall not practice pharmacy and his license  
12 shall be automatically suspended until the Board or its designee approves a new supervisor.  
13 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
14 acknowledgements to the Board shall be considered a violation of probation.

15 Within 10 days of leaving employment, respondent shall notify the Board in writing.

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

24 During suspension, respondent shall not engage in any activity that requires the  
25 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
26 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
27 designated representative for any entity licensed by the Board.

28 ///

1 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
2 licensed premises in which he holds an interest at the time this decision becomes effective unless  
3 otherwise specified in this order.

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

5 **22. No Ownership of Licensed Premises**

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

13 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a  
14 manager, administrator, member, officer, director, trustee, associate, or partner of any additional  
15 business, firm, partnership, or corporation licensed by the Board. If respondent currently owns or  
16 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,  
17 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently  
18 or hereinafter licensed by the Board, respondent may continue to serve in such capacity or hold  
19 that interest, but only to the extent of that position or interest as of the effective date of this  
20 decision. Violation of this restriction shall be considered a violation of probation.

21 **23. Criminal Probation/Parole Reports**

22 Respondent shall provide a copy of the conditions of any criminal probation/parole to the  
23 Board, in writing, within 10 days of the issuance or modification of those conditions. Respondent  
24 shall provide the name of his probation/parole officer to the Board, in writing, within 10 days  
25 after that officer is designated or a replacement for that officer is designated. Respondent shall  
26 provide a copy of all criminal probation/parole reports to the Board within 10 days after  
27 respondent receives a copy of such a report. Failure to timely make any of the submissions  
28 required hereby shall be considered a violation of probation.

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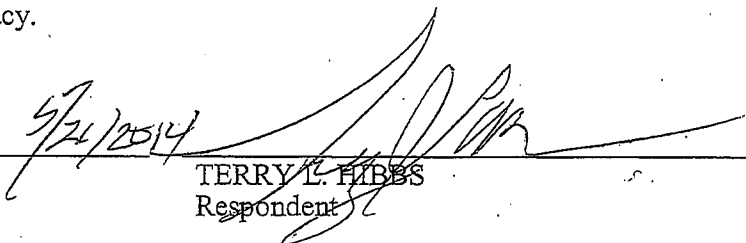
24. **Ethics Course**

Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the Board or its designee. Failure to initiate the course during the first year of probation, and complete it within the second year of probation, is a violation of probation.

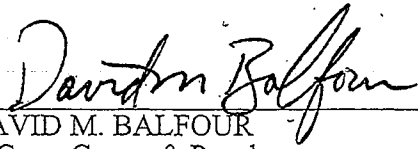
Respondent shall submit a certificate of completion to the Board or its designee within five days after completing the course.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, David M. Balfour. I understand the stipulation and the effect it will have on my Pharmacist License. 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: 5/21/2014   
TERRY L. HIBBS  
Respondent

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

DATED: 5/21/14   
DAVID M. BALFOUR  
DiCaro, Coppo & Popcke  
Attorneys for Respondent

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ENDORSEMENT

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

DATED: 5-22-14

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California

LINDA K. SCHNEIDER  
Supervising Deputy Attorney General



RITA M. LANE  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4616**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4616

13 **TERRY L. HIBBS**  
10218 Stonehurst Drive  
14 Escondido, CA 92026

**A C C U S A T I O N**

15 **Pharmacist License No. RPH 41315**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 22 2. On September 26, 1987, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 41315 to Terry L. Hibbs (Respondent). Respondent has also been known as Terry  
24 Lee Hibbs. The Pharmacist License was in full force and effect at all times relevant to the  
25 charges brought herein and will expire on September 30, 2013, unless renewed.

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## JURISDICTION

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

4. Section 4300, subdivision (a), of the Code states that every license issued may be suspended or revoked.

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

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

1 the crime in order to fix the degree of discipline or to determine if the conviction  
2 is substantially related to the qualifications, functions, and duties of the licensee in  
question.

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

5 9. Section 4301 of the Code states:

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

9 . . . .

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

13 . . . .

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

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

27 . . . .

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1 **REGULATORY PROVISIONS**

2 10. California Code of Regulations, title 16, section 1769, states:

3 . . . .

4 (b) When considering the suspension or revocation of a facility or a  
5 personal license on the ground that the licensee or the registrant has been  
6 convicted of a crime, the board, in evaluating the rehabilitation of such person and  
7 his present eligibility for a license will consider the following criteria:

8 (1) Nature and severity of the act(s) or offense(s).

9 (2) Total criminal record.

10 (3) The time that has elapsed since commission of the act(s) or  
11 offense(s).

12 (4) Whether the licensee has complied with all terms of parole,  
13 probation, restitution or any other sanctions lawfully imposed against the licensee,

14 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

23 **COST RECOVERY**

24 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request  
25 the administrative law judge to direct a licentiate found to have committed a violation or  
26 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
27 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not  
28 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs  
may be included in a stipulated settlement.

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FIRST CAUSE FOR DISCIPLINE

(Sep. 19, 2005 Conviction for Driving With a BAC of .08% or More on Jul. 9, 2005)

13. Respondent subjected his pharmacist license to discipline under Code sections 490 and 4301, subdivision (l) in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a licensed pharmacist. The circumstances are as follows:

a. On September 19, 2005, in a criminal proceeding entitled *The People of the State of California vs. Terry Lee Hibbs*, in San Diego County Superior Court North County Division, Case Number CN198058, Respondent was convicted on his plea of guilty to violating Vehicle Code (VC) 23152 subdivision (b), driving with a blood alcohol concentration (BAC) of 0.08 percent or more, a misdemeanor. Respondent admitted and the court found true the allegation that Respondent's BAC was .15 percent or more, a sentencing enhancement pursuant to VC section 23578. Respondent was also charged with violation of VC section 23152, subdivision (a), driving under the influence of alcohol (DUI), a misdemeanor, with a similar enhancement, which was dismissed pursuant to a plea bargain.

b. As a result of the conviction, on September 19, 2005, Respondent was granted three years summary probation and sentenced to serve 180 days in the San Diego County Jail, which was suspended. Respondent was also ordered to render five days of community service under the public service program, which was converted to 50 hours of volunteer work at any non-profit organization; pay restitution, fines, and fees; and attend and satisfactorily complete a first conviction DUI program and a Mothers Against Drunk Driving (MADD) Victim's Impact Panel.

c. The facts that led to the conviction are that on July 9, 2005, Respondent was arrested by an officer of the California Highway Patrol (CHP) in Oceanside, California for DUI. Respondent's subsequent chemical test results indicated a BAC of .19 percent.

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1 SECOND CAUSE FOR DISCIPLINE

2 (December 18, 2012 Criminal Conviction for DUI on August 11, 2012)

3 14. Respondent subjected his pharmacist license to discipline under Code sections 490  
4 and 4301, subdivision (l) in that he was convicted of a crime that is substantially related to the  
5 qualifications, functions, and duties of a licensed pharmacist. The circumstances are as follows:

6 a. On December 18, 2012, in a criminal proceeding entitled *The People of*  
7 *the State of California vs. Terry Lee Hibbs*, in San Diego County Superior Court North County  
8 Division, Case Number CN311690, Respondent was convicted on his plea of guilty to violating  
9 VC 23153, subdivision (b), driving with a BAC of 0.08 percent or more and causing bodily  
10 injury to another, a felony. Respondent admitted and the court found true the allegation that  
11 Respondent's BAC was .15 percent or more, a sentencing enhancement pursuant to VC section  
12 23578. Respondent also admitted and the court found true the allegation that pursuant to VC  
13 section 23560, that he had been convicted of DUI within the past ten years, based upon his  
14 conviction on September 19, 2005, in case number CN198058, detailed in paragraph 13, above.  
15 Respondent was also charged with violation of VC section 23153, subdivision (a), DUI and  
16 causing bodily injury to another, a felony, with similar enhancements, which was dismissed  
17 pursuant to a plea bargain.

18 b. As a result of the conviction, on December 18, 2012, Respondent was  
19 granted five years summary probation and sentenced to be committed to the custody of the San  
20 Diego County Sheriff for one day, with credit for one day served. Respondent was also ordered  
21 to pay restitution, fines, and fees; install a secure continuous remote alcohol monitor (SCRAM)  
22 bracelet within 24 hours for 45 days; and attend and satisfactorily complete a multiple conviction  
23 DUI program and a MADD Victim's Impact Panel.

24 c. The facts that led to the conviction are that on August 11, 2012,  
25 Respondent rear-ended another vehicle while driving along Centre City Parkway in Escondido,  
26 California. After the collision, the driver of the other vehicle complained of pain in his neck. The  
27 Escondido Fire Department transported Respondent to the Palomar Medical Center for  
28 evaluation where Respondent's blood test resulted in a BAC of .29 percent.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct - Dangerous Use of Alcohol)

3 15. Respondent subjected his pharmacist license to discipline under Code section  
4 4301, subdivision (h) in that on July 9, 2005 and August 11, 2012, he used alcohol to the extent  
5 and in a manner that was dangerous and injurious to himself and to the public, as described in the  
6 causes above, which are incorporated by reference.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Conviction of Alcohol Related Felony)

9 16. Respondent subjected his pharmacist license to discipline under Code section  
10 4301, subdivision (k) in that on December 18, 2012, he was convicted of a felony involving the  
11 use or consumption of alcohol.

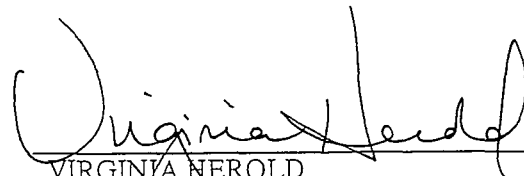
12 PRAYER

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

- 15 1. Revoking or suspending Pharmacist License Number RPH 41315, issued to Terry
- 16 L. Hibbs;
- 17 2. Ordering Terry L. Hibbs to pay the Board of Pharmacy the reasonable costs of the
- 18 investigation and enforcement of this case, pursuant to Business and Professions Code section
- 19 125.3;
- 20 3. Taking such other and further action as deemed necessary and proper.

21  
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24 DATED: \_\_\_\_\_

7/12/13



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

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