

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

In the Matter of the Statement of Issues Against:

Case No. 4488

JULIE ANNE ROBINSON

4217 McKeller Lane #7
Palo Alto, CA 94306

Applicant for Pharmacy Technician Registration

Respondent.

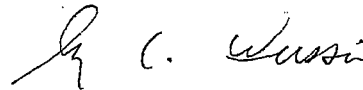
DECISION AND ORDER

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 November 12, 2013.

It is so ORDERED on November 6, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
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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 **JULIE ANNE ROBINSON**
13 Respondent.

Case No. 4488
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14
15
16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
18 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
19 be submitted to the Board for approval and adoption as the final disposition of the Statement of
20 Issues.

21 PARTIES

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
23 She brought this action solely in her official capacity and is represented in this matter by Kamala
24 D. Harris, Attorney General of the State of California, by Brett A. Kingsbury, Deputy Attorney
25 General.

26 2. Respondent Julie Anne Robinson (Respondent) is representing herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.

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1 3. On or about July 24, 2012, Respondent filed an application dated July 17, 2012, with
2 the Board of Pharmacy to obtain a Pharmacy Technician license.

3 JURISDICTION

4 4. Statement of Issues No. 4488 was filed before the Board of Pharmacy (Board),
5 Department of Consumer Affairs, and is currently pending against Respondent. The Statement of
6 Issues and all other statutorily required documents were properly served on Respondent on July 9,
7 2013.

8 5. A copy of Statement of Issues No. 4488 is attached as Exhibit A and incorporated
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read and understands the charges and allegations in
12 Statement of Issues No. 4488. Respondent has also carefully read and understands the effects of
13 this Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 9. Respondent admits the truth of each and every charge and allegation in Statement of
25 Issues No. 4488.

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

1 CONTINGENCY

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

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

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

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

23 DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Respondent Julie Anne Robinson shall be issued a
25 Pharmacy Technician registration, which will be immediately revoked. The revocation will be
26 stayed and the Respondent placed on five (5) years probation on the following terms and
27 conditions.

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

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

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

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

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

20 **2. Obey All Laws**

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

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

- 24 an arrest or issuance of a criminal complaint for violation of any provision of the
25 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
26 substances laws
27 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
28 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 license or which is related to the practice of pharmacy or
4 the manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
5 device or controlled substance.

6 Failure to timely report any 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 its
19 designee. Failure to appear for any scheduled interview without prior notification to board staff,
20 or failure to appear at two (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 her
25 probation. Failure to cooperate shall be considered a violation of probation.

26 **6. Notice to Employers**

27 During the period of probation, respondent shall notify all present and prospective
28 employers of the decision in case number 4488 and the terms, conditions and restrictions imposed

1 on respondent by the decision, as follows:

2 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
3 respondent undertaking any new employment, respondent shall cause her direct supervisor,
4 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
5 tenure of employment) and owner to report to the board in writing acknowledging that the listed
6 individual(s) has/have read the decision in case number 4488 and the terms and conditions
7 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
8 supervisor(s) submit timely acknowledgement(s) to the board.

9 If respondent works for or is employed by or through a pharmacy employment service,
10 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
11 of the terms and conditions of the decision in case number 4488 in advance of the respondent
12 commencing work at each pharmacy. A record of this notification must be provided to the board
13 upon request.

14 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
15 (15) days of respondent undertaking any new employment by or through a pharmacy employment
16 service, respondent shall cause her direct supervisor with the pharmacy employment service to
17 report to the board in writing acknowledging that he/she has read the decision in case number
18 4488 and the terms and conditions imposed thereby. It shall be respondent's responsibility to
19 ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

23 "Employment" within the meaning of this provision shall include any full-time,
24 part-time, temporary or relief service or pharmacy management service as a pharmacy
25 technician or in any position for which a pharmacy technician license is a requirement
26 or criterion for employment, whether the respondent is considered an employee,
27 independent contractor or volunteer.

28 **7. Probation Monitoring Costs**

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

5 **8. Status of License**

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

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

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

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

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

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

1 **Employment**

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

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

9 **11. Tolling of Probation**

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

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

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

24 "Cessation of work" means calendar month during which respondent is not
25 working for at least 40 hours as a pharmacy technician, as defined in Business and
26 Professions Code section 4115. "Resumption of work" means any calendar month
27 during which respondent is working as a pharmacy technician for at least 40 hours as
28 a pharmacy technician as defined by Business and Professions Code section 4115.

1 **12. Violation of Probation**

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

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

14 **13. Completion of Probation**

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

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

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

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

26 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
27 attendance at a recognized and established substance abuse recovery support group in California,
28 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board

1 or its designee. Respondent must attend at least one group meeting per week unless otherwise
2 directed by the board or its designee. Respondent shall continue regular attendance and submit
3 signed and dated documentation confirming attendance with each quarterly report for the duration
4 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
5 probation.

6 **16. Random Drug Screening**

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

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

1 control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled
2 substances. Respondent shall not resume work until notified by the board.

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

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

8 **17. Work Site Monitor**

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

19 **18. Notification of Departure**

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

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

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

1 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
2 treatment of the respondent. Failure to timely provide such documentation shall be considered a
3 violation of probation. Respondent shall ensure that she is not in the same physical location as
4 individuals who are using illicit substances even if respondent is not personally ingesting the
5 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
6 not supported by the documentation timely provided, and/or any physical proximity to persons
7 using illicit substances, shall be considered a violation of probation.

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

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

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

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

14 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
15 Subject to the above restrictions, respondent may continue to own or hold an interest in any
16 licensed premises in which she 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 ACCEPTANCE

20 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
21 stipulation and the effect it will have on my Pharmacy Technician license. I enter into this
22 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
23 to be bound by the Decision and Order of the Board of Pharmacy.

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25 DATED: 9/12/13

Julie A Robinson
26 JULIE ANNE ROBINSON
Respondent

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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: *September 19, 2013*

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JOSHUA ROOM
Supervising Deputy Attorney General



BRETT A. KINGSBURY
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

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2 FRANK H. PACOE
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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:

Case No. 4488

12 **JULIE ANNE ROBINSON**

STATEMENT OF ISSUES

13 Respondent.

14
15 Complainant alleges:

16 PARTIES

- 17 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
18 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 19 2. On or about July 20, 2012, the Board of Pharmacy, Department of Consumer Affairs
20 received an application for a Pharmacy Technician license from Julie Anne Robinson
21 (Respondent). On or about July 17, 2012, Respondent certified under penalty of perjury to the
22 truthfulness of all statements, answers, and representations in the application. The Board denied
23 the application on October 16, 2012.

24 JURISDICTION

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

28 4. Section 4300 of the Code states:

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

- "(1) Medical or psychiatric evaluation.
- "(2) Continuing medical or psychiatric treatment.
- "(3) Restriction of type or circumstances of practice.
- "(4) Continuing participation in a board-approved rehabilitation program.
- "(5) Abstention from the use of alcohol or drugs.
- "(6) Random fluid testing for alcohol or drugs.
- "(7) Compliance with laws and regulations governing the practice of pharmacy.

"(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

STATUTORY AUTHORITY

5. Section 4301 of the Code states:

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

"....

1 "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or
2 administering or offering to sell, furnish, give away, or administer any controlled substance to an
3 addict.

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

6 "

7 6. Section 4060 of the Code states:

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

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

22 7. Section 11550(a) of the California Health & Safety Code provides:

23 "No person shall use, or be under the influence of any controlled substance which is (1)
24 specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
25 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
26 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
27 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
28 Schedule III, IV, or V, except when administered by or under the direction of a person licensed

1 by the state to dispense, prescribe, or administer controlled substances. It shall be the burden of
2 the defense to show that it comes within the exception. Any person convicted of violating this
3 subdivision is guilty of a misdemeanor and shall be sentenced to serve a term of not less than 90
4 days or more than one year in a county jail. The court may place a person convicted under this
5 subdivision on probation for a period not to exceed five years and, except as provided in
6 subdivision (c), shall in all cases in which probation is granted require, as a condition thereof, that
7 the person be confined in a county jail for at least 90 days. Other than as provided by subdivision
8 (c), in no event shall the court have the power to absolve a person who violates this subdivision
9 from the obligation of spending at least 90 days in confinement in a county jail.

10 DRUGS

11 8. **Methamphetamine** is a Schedule II controlled substance as designated by Health and
12 Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions
13 Code section 4022. It is a stimulant drug.

14 COSTS

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

21 FIRST CAUSE FOR DENIAL OF APPLICATION

22 (Violation of Statute Regulating Controlled Substances)

23 10. Respondent's application is subject to denial under sections 4300(c) & 4301(j) of the
24 Code in that Respondent violated a statute regulating controlled substances. The circumstances
25 are as follows.

26 11. Respondent violated Code section 4060 in that at various times between 2000 and
27 2003, and again between 2005 and 2007, Respondent possessed a controlled substance, namely
28 methamphetamine.

1 12. Respondent violated California Health & Safety Code section 11550(a) in that on
2 various occasions between 2000 and 2003, and again between 2005 and 2007, Respondent used a
3 controlled substance, namely methamphetamine.

4 SECOND CAUSE FOR DENIAL OF APPLICATION

5 (Administering Controlled Substance to an Addict)

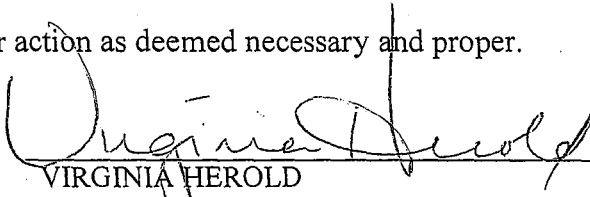
6 13. Respondent's application is subject to denial under sections 4300(c) & 4301(i) of the
7 Code in that on various occasions between 2000 and 2003, and again between 2005 and 2007,
8 Respondent administered a controlled substance (methamphetamine) to an addict, namely herself.

9 PRAYER

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

- 12 1. Denying the application of Julie Anne Robinson for a Pharmacy Technician license;
13 2. Taking such other and further action as deemed necessary and proper.

14 DATED: 6/27/13


15 VIRGINIA HEROLD
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant

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