

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

In the Matter of the Accusation and Petition
to Revoke Probation Against:

MEGAN BRIGID HARWOOD

Pharmacist License No. RPH 60791,

Respondent.

Case No. 5403

OAH No. 2015051028

DECISION AFTER REJECTION OF PROPOSED DECISION

This matter came on regularly for hearing on March 24, 2016, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California. Virginia Herold (Complainant) was represented by Geoffrey Ward, Deputy Attorney General. Megan Brigid Harwood (Respondent) was present and represented herself.

During the hearing, Complainant amended the First Amended Petition to Revoke Probation¹ by striking the third cause to revoke probation in its entirety (paragraphs 53 through 62). Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted. The administrative law judge (ALJ) issued his Proposed Decision on March 28, 2016.

On May 3, 2016, pursuant to section 11517 of the Government Code, the California State Board of Pharmacy ("Board") issued an Order rejecting the March 28, 2016, Proposed Decision of the ALJ in the above-entitled matter. On June 8, 2016, the Board issued an Order reflecting that the transcript had been received and the deadline for submission of written argument was set for July 8, 2016. The June 8, 2016, order specified that no new evidence would be submitted. Copies of transcripts were mailed to the parties, but respondent did not receive her copy. As a result, on July 1, 2016, an Amended Order Setting Date for the Submission of Written Argument was issued, extending the time to file written argument to July 15, 2016. Both parties submitted written argument on or before July 15, 2016. Respondent also submitted three revised arguments

¹ The initial pleading was entitled Accusation and Petition to Revoke Probation. Upon amending that pleading, Complainant struck the allegations relating to the Accusation and changed the title to First Amended Petition to Revoke Probation.

after her first argument was submitted and requested that the final argument be accepted. Complainant objected to the three subsequent arguments as untimely. Complainant also objected the attachments in so far as they were new testimony, and that new evidence was prohibited. The Board accepts respondent's timely-filed argument and rejects the three subsequent arguments; those were not considered. With regard to the attachment to respondent's argument, her "personal plea," the Board accepts that portion of the document as argument.

The Board, having reviewed and considered the entire record, including the transcript, exhibits and written argument, now issues this decision.

REDACTION OF CONFIDENTIAL INFORMATION

Exhibits A and D contain several references to Respondent's personally identifiable information. On his own motion, the Administrative Law Judge redacted that information.

In her written argument after rejection of the Proposed Decision, respondent requests the sealing of her medical information in the record. The Board finds that the ALJ's order redacting portions of the record, reflected above, is adequate. The issues in this matter relate to respondent's compliance with the probation requirements related to abstention and testing, including a requirement that she notify the Board of drugs she had been prescribed. To the extent respondent's medical information is reflected here, it is relevant to the decision, its analysis, and to protection of the public.

FACTUAL FINDINGS

1. Complainant is the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).
2. On March 7, 2008, the Board issued Original Pharmacist License Number RPH 60791 to Respondent. The license was in full force and effect at all relevant times. It will expire on July 31, 2017, unless renewed.
3. By decision effective November 23, 2011, made pursuant to a Stipulated Settlement and Disciplinary Order, the Board revoked Respondent's pharmacist license, stayed the revocation, and placed Petitioner on probation for a period of three years on specified terms and conditions. In entering into the settlement, Respondent admitted to allegations of possessing controlled substances and acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in the Accusation.² During the period of probation, Respondent failed to comply with probationary condition 13 when she failed to maintain employment as a pharmacist in

² *In the Matter of the Accusation Against Megan Brigid Harwood*, case number 3526.

California for a minimum of 40 hours per calendar month. Therefore, her probation was tolled, which extended the termination date of her probation to February 22, 2015. Effective April 18, 2014, Respondent's petition for early termination of probation was denied. Respondent currently remains on probation pursuant to probationary condition 14, which states in relevant part: "If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided."

Respondent's Failure to Notify the Board of a Name Change

4. Respondent's probationary condition number 12 reads in relevant part:

Respondent shall ... notify the Board in writing within ten (10) days of a change in name, residence address, mailing address, or phone number.

5. At all relevant times, the Board's records reflected Respondent's name as Megan Brigid Harwood. Respondent married in the state of New York on April 4, 2014. Her new surname, as reflected on the New York State Department of Health Certificate of Marriage Registration was Harwood-Gurnari. (Exhibit 26.)

6. Respondent did not inform the Board of her new surname within 10 days of her marriage because she stated she did not intend to change her name in any way. She had been told by the lead marriage clerk in New York that, if she did not list her married name on the marriage certificate, a new procedure would be necessary if she ever wanted to begin using her married name. However, by including her married name on the marriage certificate, she could later begin using it without that additional procedure. Therefore, Respondent considered the inclusion of her married name on the marriage certificate a method by which she could effect a name change, but that it was not a name change in and of itself.

7. On or about April 16, 2014, Respondent filled a prescription under the name Megan Guarnari. Respondent testified that she had not intended to use that name for the prescription, but her physician wrote it in error. Respondent learned of the error when she attempted to have the prescription filled at a pharmacy. However, she did not attempt to have it changed before having the prescription filled.

8. On January 20, 2015, Respondent notified the Board that she had not changed her name from Harwood, and that she had no intention of doing so.

Respondent's Failure to Report Prescriptions and Medical Conditions

9. Complainant established the truth of the charging allegations in paragraphs 33 through 52 of the First Amended Petition to Revoke Probation. Except for the final sentence in paragraph 52, which is omitted as irrelevant, those paragraphs are reiterated below and are incorporated herein as factual findings.

33. At all times after the effective date of Respondent's probation, Condition 18 stated:

"Abstain from Drugs and Alcohol Use:

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

34. On November 15, 2011, a week before Respondent's probation was to start, she attended a conference with Board staff to review the terms and conditions of her probation.

35. That day, the Board's probation monitor sent Respondent a letter advising her that to avoid potential problems on drug tests, she should immediately advise the Board of all legitimately prescribed drugs, including providing a photocopy of new prescriptions and documentation of the medical bases for the prescriptions. The letter also informed her that positive tests for alcohol or any drugs not lawfully prescribed would result in an automatic suspension.

36. In November and December 2011, Respondent provided the Board with prescriptions for Hydrocodone / APAP and Adderall.

37. Respondent continued to use Hydrocodone / APAP and Adderall, but did not provide the Board with updated prescriptions. On May 24, 2012, Board staff sent her a letter telling her she had tested positive for Hydrocodone and Amphetamine on multiple drug screenings without a current prescription on file.

38. On or about June 6, 2012, Respondent provided current prescriptions for Hydrocodone-Acetaminophen (*sic*) and Adderall.

39. On July 1, 2013, Board staff sent Respondent another letter telling her she had not been providing her updated prescription records to the Board. The letter reiterated that it was Respondent's responsibility to submit documentation of prescriptions when refilled, stating **“Additionally, for the future and while on probation with the board, please be sure to submit documentation of any and all prescription refills and/or new medications in a timely manner.** Be sure to provide legitimate documentation for those drugs to include the name, strength, quantity, directions and the medical basis for the prescription.”

[[E]mphasis in original.]

40. On January 31, 2014, the Board sent Respondent a Notice of Suspension due to a positive drug screening for Tramadol. Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard, as well as legible copies of any or all recent prescriptions within five days of the notice.

41. On or about February 1, 2014, the Board received an email from Respondent stating that she had received a prescription for Tramadol on or about January 10, 2014 and that she did not think she had to provide the prescription as it was not a controlled substance. Respondent provided a copy of the Tramadol prescription.

42. On February 3, 2014, the Board sent Respondent a letter stating the suspension for the positive drug test for Tramadol had been lifted and that Respondent was authorized to return to work.

43. On February 24, 2014, the Board sent Respondent a second Notice of Suspension due to a positive drug screening for Phosphatidyl Ethanol (alcohol). Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard as well as legible copies of any or all recent prescriptions within five days of the notice.

44. On or about March 11, 2014, Respondent sent an email to the Board providing a copy of a December 7, 2013 prescription for Iberogast and a picture of an Iberogast label. Iberogast is a medication, a blend of herbs, that contains 31% alcohol, as stated on its label.

45. On March 12, 2014, the Board sent Respondent a letter stating the suspension for the positive drug test for alcohol had been lifted and that Respondent was authorized to return to work. The letter also stated "Additionally, it is highly recommended that you submit a copy(s) of any and all prescriptions immediately upon receipt to avoid unnecessary suspension."

46. On July 10, 2014, the Board sent Respondent a third Notice of Suspension due to a positive drug screening for marijuana. Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard, as well as legible copies of any or all recent prescriptions within five days of the notice.

47. On or about July 11, 2014, Respondent emailed the Board with an explanation of her marijuana usage and attached [a] physician's written recommendation dated December 6, 2013.

48. On July 11, 2014, the Board responded to Respondent's email stating that the authorization on file at the Board is for the compassionate use of marijuana dated October 15, 2010, and the suspension was lifted.

49. On January 7, 2015, the Board sent Respondent a fourth Notice of Suspension due to a positive drug screening for buprenorphine. Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard, as well as legible copies of any or all recent prescriptions within five days of the notice.

50. On or about January 8, 2015, Respondent supplied to the Board a prescription for buprenorphine (Suboxone) under the name, Megan Guarnari, which was not her legal maiden name or the name listed on her New York marriage certificate.

51. On or about January 12, 2015, Respondent finally provided an updated comprehensive list of her medications and diagnoses via email. Respondent's list, however, failed to include marijuana, which she regularly used.

52. On January 15, 2015, Respondent provided a prescription for buprenorphine....

10. Respondent suffers from a large number of medical conditions including but not limited to Fibromyalgia, Irritable Bowel Syndrome, Gastroesophageal Reflux Disease, migraine headaches, Sjogren's Syndrome, chronic asthma, insomnia, Attention Deficit-Hyperactivity Disorder, and generalized anxiety. Those conditions require her to take numerous medications. She supplements her prescribed medications with natural remedies.

11. As referenced above, Respondent initially failed to submit a prescription for Tramadol because she believed it was not necessary to do so since Tramadol was not a controlled substance. However, she need only have referenced the stipulated settlement to realize that disclosure of more than controlled substances was required.

12. Although Respondent failed to list marijuana in her January 12, 2015 comprehensive medication list (Exhibit 23), she did list "Canabadol (CBD Elixir)." Respondent credibly testified that this was an oil extracted from cannabis which has no psychoactive effect. (It was not clear from the documentary or oral evidence whether Respondent actually meant "cannabidiol.") However, the Board was rightfully concerned about the omission of marijuana from Respondent's list because of the representation Respondent made to the Board in her July 11, 2014 email, in which she wrote:

In case you need to document for your own records, I use cannabis, either orally or through a vaporizer, as a last resort for severe GI

symptoms related to Sjogren's Syndrome & treatment-resistant migraines.

(Exhibit 19.)

13. Respondent never intended to mislead the Board with respect to her medical conditions or the medications she has taken and continues to take. She believes that part of the problem she encountered in maintaining compliance with probationary condition 18 stemmed from a rash of mailbox thefts in her neighborhood which may have resulted in her failure to receive certain correspondence from the Board. Additionally, in certain cases, she stated that she used so little of the medications that she did not believe it necessary to report them as medications she regularly ingested. For example, she compounded buprenorphine with sugar and water, making 40 doses out of a single tablet. She also stated, "the dose is so small, it's almost homeopathic..." and that she "think[s] of it homeopathically because it's such a tiny dose."

14. Respondent misunderstood the requirement that she submit new prescriptions periodically when she still had the older medications. She mistakenly believed she only had to have a prescription on file in order to substantiate a positive drug test. Thus, she was unaware that the prescriptions on file with the Board were outdated. However, Respondent did not explain why she failed to become proactive in providing the Board with new prescriptions after her second, third and fourth suspensions.

15. Respondent is committed to her career as a pharmacist and to compliance with her probationary terms. She has spent a significant amount of time attempting to understand the laws by which she is bound. For example, between November 4, 2013, and March 17, 2016, Respondent regularly attended the Board's public board meetings in various parts of the state. She earned no fewer than 132 hours of continuing education credits for doing so. However, although she tries to be as careful as she can in providing the Board with what it requires of her, Respondent would like to have more support in her monitoring rather than immediate consequences to her mistakes.

16. Respondent would like to work with and assist future probationers by letting her errors serve as training for them because she believes "the language of the rules is tricky." (Respondent's words.)

17. Respondent has been active in volunteering her time with a number of groups including the Orange County Substance Abuse Committee and the Los Angeles Disaster Healthcare Volunteers Surge Unit. In October 2015, she completed the City of Los Angeles Fire Department's Community Emergency Response Team (CERT) training.³

³ Respondent's probationary condition number 19 requires that Respondent provide the Board with a plan to "provide free health-care related services on a regular basis to a community or charitable facility or agency for at least 100 hours during the first year of probation." The evidence did not establish

LEGAL CONCLUSIONS

1. Cause exists to revoke Respondent's probation and impose the license revocation previously stayed as set forth in Findings 3, 4, 5, 6, 7, 8, 9, 11, 12, and 14.

The Name Change Issue

2. Although Respondent may not have intended to change her name from her maiden name, by allowing her married name to be printed on her marriage certificate, and by allowing a prescription to be issued in her married name, she endorsed a name change that required her to at least place the Board on notice that she had used or was using more than one name. She had at least two opportunities to do so, but failed to do so both times. However, although her failure to notify the Board of her name change constitutes grounds to revoke her probation, it was not with any intent to mislead or defraud. It is, however, concerning as one of a pattern of instances where she does not understand or take seriously the requirements of her probation.

The Prescription and Medical Condition Issue

3. Despite the Board's efforts to orient Respondent to the meaning of her probationary terms and conditions, Respondent misunderstood the requirements of Condition 18 from the beginning of her probation. That condition required Respondent to provide documentation from her health care provider regarding the legitimacy of the prescriptions upon request by the Board or its designee.

4. The first of those requests was made on November 15, 2011 when her probation monitor, a Board designee, instructed her to not only submit documentation for the drugs she was currently taking, but to also provide photocopies of any new prescriptions she received. On July 1, 2013, the Board notified Respondent that she had not been updating her prescription records with the Board and that she was to do so in a timely manner.

5. Respondent received her first suspension notice on or about January 31, 2014, following a positive drug screening for Tramadol. Respondent timely complied with the Board's requirement for a drug update, but she believed the update was unnecessary because Tramadol was not a controlled substance. She apparently failed to understand that controlled substances were not the only medications she was required to report. Nonetheless, Respondent timely provided a copy of the Tramadol prescription to the Board, and the Board lifted the suspension.

whether the volunteer work reference in Factual Finding 17 was initiated in compliance with probationary condition 19, but regardless of whether it was, Respondent continues with the same volunteer work today, well after the first 100 days of probation.

It is concerning that, as a pharmacist, respondent did not understand the scope of the reporting requirements and that she was required to report any type of dangerous drug, and that this was one of a series of “misunderstandings” unique to her.

6. On February 24, 2014, the Board issued a second suspension notice following a positive drug screening for alcohol. Respondent timely complied with the Board's requirement for a drug update, and the suspension was lifted when the Board learned that the positive finding was a function of Respondent's legitimate prescription for Iberogast.

7. Respondent's third suspension notice was issued on July 10, 2014, following a positive drug screening for marijuana. Again, Respondent timely complied with the Board's requirement for a drug update, and the suspension was lifted.

8. The Board issued its fourth suspension notice to Respondent on January 7, 2015, following a positive drug screening for buprenorphine. Again, Respondent timely complied with the Board's requirement for a drug update, and the Board lifted the suspension.

9. Respondent's four suspensions evidence three facts. First, Respondent has been unable to timely keep the Board informed of all of her medications and the information about them as the Board required. Secondly, Respondent has made no attempt to mislead or defraud the Board regarding her medications. She has promptly provided the required documentation in each instance, and in each instance, the Board has lifted the suspension. Third, Respondent failed to be proactive in learning how to properly comply with the terms and conditions of probation despite her having suffered four license suspensions. It is extremely concerning that she did not understand the requirements and that there is a pattern of continuously not understanding. Even at hearing, Respondent misunderstood the time to return from lunch and returned 20 minutes late.

10. Respondent is committed to her profession and desires to comply with the terms and conditions of her probation. She has attempted to familiarize herself with the laws governing the practice of pharmacy via regular attendance at open Board meetings around the state, and she has also attempted to further the practice of pharmacy through her volunteer work.

The Discipline

11. Despite her efforts, Respondent appears to have been unable to understand and follow the Board's requirements. Her experience also appears unique to her. Given that the goal of probation is public protection, however, respondent will have the opportunity to prove she can comply with the Board's requirements. That opportunity, however, must be within the context of further Board discipline. The Board considers its Disciplinary Guidelines (rev. 10/2007) to determine the appropriate penalty. (16 C.C.R § 1760.) In light of the nature of respondent's

repeated violations, and the concerns about her pattern of repeatedly misunderstanding, probation shall be imposed for an additional five years under terms and conditions. In light of her inability or unwillingness to understand the requirements of probation, additional terms are warranted to ensure that there are not any addiction or abuse issues, or comprehension issues, that could affect compliance with probation or practice of pharmacy. As such, in addition to most of the previous terms, terms will be included requiring her to obtain a mental health evaluation (model term #18) and to submit herself to Pharmacists Recovery Program (model term #21), which can decide whether she would benefit from its provisions. In addition, model term #24, Prescription Coordination and Monitoring of Prescription Use will be required to ensure that all medication she takes is coordinated with a single health care practitioner. For additional consumer protection, supervised practice will be required (model term #30) and respondent will not be allowed to own a licensed premises (model term #32).

Costs

12. Because the instant pleading is a petition to revoke probation, and because no evidence of costs was presented, or argument being made in favor of costs being awarded for a petition to revoke probation. Investigation and prosecution costs will not be awarded.

ORDER

Pharmacist License number RPH 60791 issued to Respondent Megan Brigid Harwood is revoked. However, the revocation is stayed, and Respondent is placed on probation for five years on the following terms and conditions:

1. 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:

- a. 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;
- b. A plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- c. A conviction of any crime; or
- d. Discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacist license or which is related to the

practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. Report to the Board

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

3. Interview with the Board

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

4. Cooperate with Board Staff

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

5. Continuing Education

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

6. Notice to Employers

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 5403 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking any new employment, Respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5403, and terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the terms and conditions of the decision in case number 5403 in advance of Respondent commencing work at each licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking any new employment by or through a pharmacy employment service, Respondent shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that she has read the decision in case number 5403 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether Respondent is an employee, independent contractor or volunteer.

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

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

8. Probation Monitoring Costs

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

9. Status of License

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

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

10. License Surrender While on Probation/Suspension

Following the effective date of this decision, should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender her license to the Board for surrender. 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, Respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of Respondent's license history with the Board.

Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent 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.

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

Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent

shall further notify the Board in writing within 10 days of a change in name, residence address, mailing address, or phone number.

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

12. Tolling of Probation

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

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

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

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

Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses medication for a minimum of one year prior to the completion of probation. After the first year of probation, the Board or its designee may consider a modification of this requirement. If Respondent fails to comply with this requirement or a subsequent modification thereto, such failure shall be considered a violation of probation.

13. Violation of Probation

If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended,

until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

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

14. Completion of Probation

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

15. Pharmacists Recovery Program (PRP)

Within thirty (30) days, Respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addenda as recommended and provided by the PRP and as approved by the Board or its designee. The costs for PRP participation shall be borne by Respondent.

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

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

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

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic

suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

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 controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, 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 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.

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

16. Random Drug Screening

Respondent, at her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the Board or its designee. At all times, Respondent shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the Board or its designee, Respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of Respondent. Failure to timely

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

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 controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, 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 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.

17. Abstain from Drugs and Alcohol Use

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

Upon request of the Board or its designee, Respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that she is not in the same physical location as individuals who are using illicit substances even if Respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any

physical proximity to persons using illicit substances, shall be considered a violation of probation.

18. Prescription Coordination and Monitoring of Prescription Use

Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's history with controlled substances, and dangerous drugs, and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the Board's petition to revoke probation and decision in case number 5403, and accusation and decision in case number 3526. A record of this notification must be provided to the Board upon request. Respondent shall sign a release authorizing the practitioner to communicate with the Board about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the Board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The Board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the Board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the Board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the Board for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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 controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, 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 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.

19. Mental Health Examination

Within thirty (30) days of the effective date of this decision, and on a periodic basis as may be required by the Board or its designee, respondent shall undergo, at his or her own expense, psychiatric evaluation(s) by a Board-appointed or Board-approved licensed mental health practitioner. The approved evaluator shall be provided with a copy of the Board's petition to revoke probation and decision in case number 5403, including the accusation and decision in case number 3526. Respondent shall sign a release authorizing the evaluator to furnish the Board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the Board or its designee.

If the evaluator recommends, and the Board or its designee directs, respondent shall undergo psychotherapy. Within thirty (30) days of notification by the Board that a recommendation for psychotherapy has been accepted, respondent shall submit to the Board or its designee, for prior approval, the name and qualification of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof by the Board, respondent shall submit documentation to the Board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the Board immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a replacement licensed mental health practitioner of respondent's choice to the Board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the Board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the Board, and the Board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the Board or its designee may require respondent to undergo, at respondent's expense, a mental health evaluation by a separate Board-appointed or Board-approved evaluator. If the approved evaluator recommends that respondent continue psychotherapy, the Board or its designee may require respondent to continue psychotherapy.

Psychotherapy shall be at least once a week unless otherwise approved by the Board. Respondent shall provide the therapist with a copy of the Board's petition to revoke probation and decision in case number 5403, as well as the accusation and decision in case number 3526, no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the Board concerning respondent's fitness to practice, progress in treatment, and other such information as may be required by the Board or its designee.

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

20. Supervised Practice

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

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

Within thirty (30) days of the effective date of this decision, respondent shall have his or her supervisor submit notification to the Board in writing stating that the supervisor has read the decision in case numbers 5403 and 3526 and is familiar with the required level of supervision as determined by the Board or its designee. It shall be the respondent's responsibility to ensure that his or her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the Board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the Board shall be considered a violation of probation.

If respondent changes employment, it shall be the respondent's responsibility to ensure that his or her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the Board. Respondent shall have his or her new supervisor, within fifteen (15) days after employment commences, submit notification to the Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 5403 and is familiar with the level of supervision as determined by the Board. Respondent shall not practice pharmacy and his or her license shall be automatically suspended until the Board or its designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the Board shall be considered a violation of probation.

Within ten (10) days of leaving employment, respondent shall notify the Board in writing.

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 controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension, 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 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.

21. No Ownership of Licensed Premises

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

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

This Decision shall become effective on October 3, 2016

IT IS SO ORDERED on this 1st day of September, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation and Petition to
Revoke Probation¹ Against:

MEGAN BRIGID HARWOOD

Pharmacist License No. RPH 60791,

Respondent.

Case No. 5403

OAH No. 2015051028

TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:

**AMENDED ORDER SETTING DATE FOR
SUBMISSION OF WRITTEN ARGUMENT**

The administrative record of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written argument in accordance with the Order Rejecting the Proposed Decision dated May 3, 2016. In addition to any arguments the parties may wish to submit, the board is interested in argument directed at the following issue: If cause for discipline exists, what penalty, if any, should be applied in this case.

For good cause shown, the deadline for filing written argument has been extended. Written argument shall be filed with the Board of Pharmacy, 1625 N. Market Blvd, Suite N-219, Sacramento, California, on or before July 15, 2016. **No new evidence may be submitted.**

IT IS SO ORDERED this 1st day of July, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

¹ The charging document has since been amended; the new document is the "First Amended Petition to Revoke Probation."

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

In the Matter of the Accusation and Petition to
Revoke Probation¹ Against:

MEGAN BRIGID HARWOOD

Pharmacist License No. RPH 60791,

Respondent.

Case No. 5403

OAH No. 2015051028

TO ALL PARTIES AND THEIR ATTORNEY OF RECORD:


ORDER SETTING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The administrative record of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written argument in accordance with the Order Rejecting the Proposed Decision dated May 3, 2016. In addition to any arguments the parties may wish to submit, the board is interested in argument directed at the following issue: If cause for discipline or to revoke probation exists, what penalty is appropriate in this case.

Written argument shall be filed with the Board of Pharmacy, 1625 N. Market Blvd, Suite N-219, Sacramento, California, on or before July 8, 2016. **No new evidence may be submitted.**

IT IS SO ORDERED this 8th day of June, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

¹ The charging document was amended; the current charging document is called the "First Amended Petition to Revoke Probation."

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

In the Matter of the Accusation and Petition to
Revoke Probation¹ Against:

MEGAN BRIGID HARWOOD

Pharmacist License No. RPH 60791,

Respondent.

Case No. 5403

OAH No. 2015051028

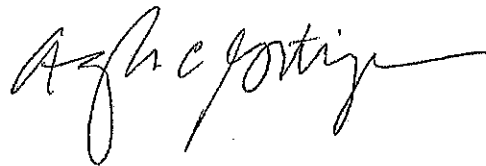
ORDER REJECTING PROPOSED DECISION

Pursuant to section 11517 of the Government Code, the Proposed Decision of the administrative law judge in the above-entitled matter is rejected. The California State Board of Pharmacy (hereinafter "board") will decide the case upon the record, including the transcript(s) of the hearing, and upon such written argument as the parties may wish to submit. No new evidence will be permitted.

The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

It is so ORDERED on May 3, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

¹ The charging document has since been amended; the new document is the "First Amended Petition to Revoke Probation."

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

In the Matter of the Accusation and Petition
to Revoke Probation Against:

MEGAN BRIGID HARWOOD

Pharmacist License No. RPH 60791,

Respondent.

Case No. 5403

OAH No. 2015051028

PROPOSED DECISION

This matter came on regularly for hearing on March 24, 2016, in Los Angeles, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Virginia Herold (Complainant) was represented by Geoffrey Ward, Deputy Attorney General.

Megan Brigid Harwood (Respondent) was present and represented herself.

During the hearing, Complainant amended the First Amended Petition to Revoke Probation¹ by striking the third cause to revoke probation in its entirety (paragraphs 53 through 62).

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

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¹ The initial pleading was entitled Accusation and Petition to Revoke Probation. Upon amending that pleading, Complainant struck the allegations relating to the Accusation and changed the title to First Amended Petition to Revoke Probation.

REDACTION OF CONFIDENTIAL INFORMATION

Exhibits A and D contain several references to Respondent's personally identifiable information. On his own motion, the Administrative Law Judge redacted that information.

FACTUAL FINDINGS

1. Complainant is the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

2. On March 7, 2008, the Board issued Original Pharmacist License Number RPH 60791 to Respondent. The license was in full force and effect at all relevant times. It will expire on July 31, 2017, unless renewed.

3. By decision effective November 23, 2011, made pursuant to a Stipulated Settlement and Disciplinary Order, the Board revoked Respondent's pharmacist license, stayed the revocation, and placed Petitioner on probation for a period of three years on specified terms and conditions. In entering into the settlement, Respondent admitted to allegations of possessing controlled substances and acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in the Accusation.² During the period of probation, Respondent failed to comply with probationary condition 13 when she failed to maintain employment as a pharmacist in California for a minimum of 40 hours per calendar month. Therefore, her probation was tolled, which extended the termination date of her probation to February 22, 2015. Effective April 18, 2014, Respondent's petition for early termination of probation was denied. Respondent currently remains on probation pursuant to probationary condition 14, which states in relevant part: "If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided."

Respondent's Failure to Notify the Board of a Name Change

4. Respondent's probationary condition number 12 reads in relevant part:

Respondent shall . . . notify the Board in writing within ten (10) days of a change in name, residence address, mailing address, or phone number.

5. At all relevant times, the Board's records reflected Respondent's name as Megan Brigid Harwood. Respondent married in the state of New York on April 4, 2014. Her new surname, as reflected on the New York State Department of Health Certificate of Marriage Registration was Harwood-Gurnari. (Exhibit 26.)

² *In the Matter of the Accusation Against Megan Brigid Harwood*, case number 3526.

6. Respondent did not inform the Board of her new surname within 10 days of her marriage because she did not intend to change her name in any way. She had been told by the lead marriage clerk in New York that, if she did not list her married name on the marriage certificate, a new procedure would be necessary if she ever wanted to begin using her married name. However, by including her married name on the marriage certificate, she could later begin using it without that additional procedure. Therefore, Respondent considered the inclusion of her married name on the marriage certificate a method by which she could effect a name change, but that it was not a name change in and of itself.

7. On or about April 16, 2014, Respondent filled a prescription under the name Megan Guarnari. Respondent had not intended to use that name for the prescription, but her physician wrote it in error. Respondent learned of the error when she attempted to have the prescription filled at a pharmacy. However, she did not attempt to have it changed before having the prescription filled.

8. On January 20, 2015, Respondent notified the Board that she had not changed her name from Harwood, and that she had no intention of doing so.

Respondent's Failure to Report Prescriptions and Medical Conditions

9. Complainant established the truth of the charging allegations in paragraphs 33 through 52 of the First Amended Petition to Revoke Probation. Except for the final sentence in paragraph 52, which is omitted as irrelevant, those paragraphs are reiterated below and are incorporated herein as factual findings.

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33. At all times after the effective date of Respondent's probation, Condition 18 stated:

"Abstain from Drugs and Alcohol Use:

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

34. On November 15, 2011, a week before Respondent's probation was to start, she attended a conference with Board staff to review the terms and conditions of her probation.

35. That day, the Board's probation monitor sent Respondent a letter advising her that to avoid potential problems on drug tests, she should immediately advise the Board of all legitimately prescribed drugs, including providing a photocopy of new prescriptions and documentation of the medical bases for the prescriptions. The letter also informed her that positive tests for alcohol or any drugs not lawfully prescribed would result in an automatic suspension.

36. In November and December 2011, Respondent provided the Board with prescriptions for Hydrocodone / APAP and Adderall.

37. Respondent continued to use Hydrocodone / APAP and Adderall, but did not provide the Board with updated prescriptions. On May 24, 2012, Board staff sent her a letter telling her she had tested positive for Hydrocodone and Amphetamine on multiple drug screenings without a current prescription on file.

38. On or about June 6, 2012, Respondent provided current prescriptions for Hydrocodone-Acetaminophen (*sic*) and Adderall.

39. On July 1, 2013, Board staff sent Respondent another letter telling her she had not been providing her updated prescription records to the Board. The letter reiterated that it was Respondent's responsibility to submit documentation of prescriptions when refilled, stating "**Additionally, for the future and while on probation with the board, please be sure to submit documentation of any and all prescription refills and/or new medications in a timely manner.** Be sure to provide legitimate documentation for those drugs to include the name, strength, quantity, directions and the medical basis for the prescription." [[E]mphasis in original.]

40. On January 31, 2014, the Board sent Respondent a Notice of Suspension due to a positive drug screening for Tramadol. Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard, as well as legible copies of any or all recent prescriptions within five days of the notice.

41. On or about February 1, 2014, the Board received an email from Respondent stating that she had received a prescription for Tramadol on or about January 10, 2014 and that she did not think she had to provide the prescription as it was not a controlled substance. Respondent provided a copy of the Tramadol prescription.

42. On February 3, 2014, the Board sent Respondent a letter stating the suspension for the positive drug test for Tramadol had been lifted and that Respondent was authorized to return to work.

43. On February 24, 2014, the Board sent Respondent a second Notice of Suspension due to a positive drug screening for Phosphatidyl Ethanol (alcohol). Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard as well as legible copies of any or all recent prescriptions within five days of the notice.

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44. On or about March 11, 2014, Respondent sent an email to the Board providing a copy of a December 7, 2013 prescription for Iberogast and a picture of an Iberogast label. Iberogast is a medication, a blend of herbs, that contains 31% alcohol, as stated on its label.

45. On March 12, 2014, the Board sent Respondent a letter stating the suspension for the positive drug test for alcohol had been lifted and that Respondent was authorized to return to work. The letter also stated "Additionally, it is highly recommended that you submit a copy(s) of any and all prescriptions immediately upon receipt to avoid unnecessary suspension."

46. On July 10, 2014, the Board sent Respondent a third Notice of Suspension due to a positive drug screening for marijuana. Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard, as well as legible copies of any or all recent prescriptions within five days of the notice.

47. On or about July 11, 2014, Respondent emailed the Board with an explanation of her marijuana usage and attached [a] physician's written recommendation dated December 6, 2013.

48. On July 11, 2014, the Board responded to Respondent's email stating that the authorization on file at the Board is for the compassionate use of marijuana dated October 15, 2010, and the suspension was lifted.

49. On January 7, 2015, the Board sent Respondent a fourth Notice of Suspension due to a positive drug screening for buprenorphine. Respondent was again advised that her license was suspended and she was directed to submit a written explanation for the positive drug test to the [B]oard, as well as legible copies of any or all recent prescriptions within five days of the notice.

50. On or about January 8, 2015, Respondent supplied to the Board a prescription for buprenorphine (Suboxone) under the name, Megan Guarnari, which was not her legal maiden name or the name listed on her New York marriage certificate.

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51. On or about January 12, 2015, Respondent finally provided an updated comprehensive list of her medications and diagnoses via email. Respondent's list, however, failed to include marijuana, which she regularly used.

52. On January 15, 2015, Respondent provided a prescription for buprenorphine. . . .

10. Respondent suffers from a large number of medical conditions including but not limited to Fibromyalgia, Irritable Bowel Syndrome, Gastroesophageal Reflux Disease, migraine headaches, Sjogren's Syndrome, chronic asthma, insomnia, Attention Deficit-Hyperactivity Disorder, and generalized anxiety. Those conditions require her to take numerous medications. She supplements her prescribed medications with natural remedies.

11. As referenced above, Respondent initially failed to submit a prescription for Tramadol because she believed it was not necessary to do so since Tramadol was not a controlled substance. However, she need only have referenced the stipulated settlement to realize that disclosure of more than controlled substances was required.

12. Although Respondent failed to list marijuana in her January 12, 2015 comprehensive medication list (Exhibit 23), she did list "Canabadol (CBD Elixir)." Respondent credibly testified that this was an oil extracted from cannabis which has no psychoactive effect. (It was not clear from the documentary or oral evidence whether Respondent actually meant "cannabidiol.") However, the Board was rightfully concerned about the omission of marijuana from Respondent's list because of the representation Respondent made to the Board in her July 11, 2014 email, in which she wrote:

In case you need to document for your own records, I use cannabis, either orally or through a vaporizer, as a last resort for severe GI symptoms related to Sjogren's Syndrome & treatment-resistant migraines.

(Exhibit 19.)

13. Respondent never intended to mislead the Board with respect to her medical conditions or the medications she has taken and continues to take. She believes that part of the problem she encountered in maintaining compliance with probationary condition 18 stemmed from a rash of mailbox thefts in her neighborhood which may have resulted in her failure to receive certain correspondence from the Board. Additionally, in certain cases, she used so little of the medications that she did not believe it necessary to report them as medications she regularly ingested. For example, she compounded buprenorphine with sugar and water, making 40 doses out of a single tablet.

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14. Respondent misunderstood the requirement that she submit new prescriptions periodically when she still had the older medications. She mistakenly believed she only had to have a prescription on file in order to substantiate a positive drug test. Thus, she was unaware that the prescriptions on file with the Board were outdated. However, Respondent did not explain why she failed to become proactive in providing the Board with new prescriptions after her second, third and fourth suspensions.

15. Respondent is committed to her career as a pharmacist and to compliance with her probationary terms. She has spent a significant amount of time attempting to understand the laws by which she is bound. For example, between November 4, 2013, and March 17, 2016, Respondent regularly attended the Board's public board meetings in various parts of the state. She earned no fewer than 132 hours of continuing education credits for doing so. However, although she tries to be as careful as she can in providing the Board with what it requires of her, Respondent would like to have more support in her monitoring rather than immediate consequences to her mistakes.

16. Respondent would like to work with and assist future probationers by letting her errors serve as training for them because she believes "the language of the rules is tricky." (Respondent's words.)

17. Respondent has been active in volunteering her time with a number of groups including the Orange County Substance Abuse Committee and the Los Angeles Disaster Healthcare Volunteers Surge Unit. In October 2015, she completed the City of Los Angeles Fire Department's Community Emergency Response Team (CERT) training.³

LEGAL CONCLUSIONS

1. Cause exists to revoke Respondent's probation and impose the license revocation previously stayed as set forth in Findings 3, 4, 5, 6, 7, 8, 9, 11, 12, and 14.

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³ Respondent's probationary condition number 19 requires that Respondent provide the Board with a plan to "provide free health-care related services on a regular basis to a community or charitable facility or agency for at least 100 hours during the first year of probation." The evidence did not establish whether the volunteer work reference in Factual Finding 17 was initiated in compliance with probationary condition 19, but regardless of whether it was, Respondent continues with the same volunteer work today, well after the first 100 days of probation.

The Name Change Issue

2. Although Respondent may not have intended to change her name from her maiden name, by allowing her married name to be printed on her marriage certificate, and by allowing a prescription to be issued in her married name, she endorsed a name change that required her to at least place the Board on notice that she had used or was using more than one name. She had at least two opportunities to do so, but failed to do so both times. However, although her failure to notify the Board of her name change constitutes grounds to revoke her probation, it was not with any intent to mislead or defraud.

The Prescription and Medical Condition Issue

3. Despite the Board's efforts to orient Respondent to the meaning of her probationary terms and conditions, Respondent misunderstood the requirements of Condition 18 from the beginning of her probation. That condition required Respondent to provide documentation from her health care provider regarding the legitimacy of the prescriptions upon request by the Board or its designee.

4. The first of those requests was made on November 15, 2011 when her probation monitor, a Board designee, instructed her to not only submit documentation for the drugs she was currently taking, but to also provide photocopies of any new prescriptions she received. On July 1, 2013, the Board notified Respondent that she had not been updating her prescription records with the Board and that she was to do so in a timely manner.

5. Respondent received her first suspension notice on or about January 31, 2014, following a positive drug screening for Tramadol. Respondent timely complied with the Board's requirement for a drug update, but she believed the update was unnecessary because Tramadol was not a controlled substance. She apparently failed to understand that controlled substances were not the only medications she was required to report. Nonetheless, Respondent timely provided a copy of the Tramadol prescription to the Board, and the Board lifted the suspension.

6. On February 24, 2014, the Board issued a second suspension notice following a positive drug screening for alcohol. Respondent timely complied with the Board's requirement for a drug update, and the suspension was lifted when the Board learned that the positive finding was a function of Respondent's legitimate prescription for Iberogast.

7. Respondent's third suspension notice was issued on July 10, 2014, following a positive drug screening for marijuana. Again, Respondent timely complied with the Board's requirement for a drug update, and the suspension was lifted.

8. The Board issued its fourth suspension notice to Respondent on January 7, 2015, following a positive drug screening for buprenorphine. Again, Respondent timely complied with the Board's requirement for a drug update, and the Board lifted the suspension.

9. Respondent's four suspensions evidence three facts. First, Respondent has been unable to timely keep the Board informed of all of her medications and the information about them as the Board required. Secondly, Respondent has made no attempt to mislead or defraud the Board regarding her medications. She has promptly provided the required documentation in each instance, and in each instance, the Board has lifted the suspension. Third, Respondent failed to be proactive in learning how to properly comply with the terms and conditions of probation despite her having suffered four license suspensions.

10. Respondent is committed to her profession and desires to comply with the terms and conditions of her probation. She has attempted to familiarize herself with the laws governing the practice of pharmacy via regular attendance at open Board meetings around the state, and she has also attempted to further the practice of pharmacy through her volunteer work.

The Discipline

11. A large gap exists between probationers who engage in intentional non-compliance and those who engage in erroneous non-compliance. Respondent falls well within the latter group. It appears from the evidence that, despite her efforts, Respondent simply has been unable to catch up and keep up with the Board's requirements. Revocation of her license on that basis would be a very harsh remedy. Respondent should have the opportunity to prove she can comply with the Board's requirements. However, that opportunity must be within the context of further Board discipline. Respondent's probation shall be extended an additional two years under the same terms and conditions previously imposed. However, because the instant pleading is a petition to revoke probation, and because no evidence of costs was presented, or argument being made in favor of costs being awarded for a petition to revoke probation. Investigation and prosecution costs will not be awarded.

ORDER

Pharmacist License number RPH 60791 issued to Respondent Megan Brigid Harwood is revoked. However, the revocation is stayed, and Respondent is placed on probation for two years on the following terms and conditions.

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- a. 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,
- b. A plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment,
- c. A conviction of any crime,
- d. Discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance,
- e. Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

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

3. Interview with the Board

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

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4. Cooperate with Board Staff

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

5. Continuing Education

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

6. Notice to Employers

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 5403 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking any new employment, Respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5403, and terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the terms and conditions of the decision in case number 5403 in advance of Respondent commencing work at each licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking any new employment by or through a pharmacy employment service, Respondent shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 5403 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the Board shall be considered a violation of probation.

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“Employment” within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether Respondent is an employee, independent contractor or volunteer.

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

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

8. Probation Monitoring Costs

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

9. Status of License

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

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

10. License Surrender While on Probation/Suspension

Following the effective date of this decision, should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender her license to the Board for surrender. 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, Respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of Respondent’s license history with the Board.

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Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent 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.

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

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

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

12. Tolling of Probation

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

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

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

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

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Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses medication for a minimum of one year prior to the completion of probation. After the first year of probation, the Board or its designee may consider a modification of this requirement. If Respondent fails to comply with this requirement or a subsequent modification thereto, such failure shall be considered a violation of probation.

13. Violation of Probation

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

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

14. Completion of Probation

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

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15. Random Drug Screening

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

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 controlled substances. Respondent shall not resume practice until notified by the Board.

During suspension. 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 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.

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16. Pharmacists Recovery Program (PRP)

In the event that any of Respondent's biological samples confirm positive for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment, Respondent shall within 30 days of the confirmed positive test, contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addenda as recommended and provided by the PRP and as approved by the Board or its designee. The costs for PRP participation shall be borne by Respondent.

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

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

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

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

17. Abstain from Drugs and Alcohol Use

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

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

18. Community Services Program

If she has not already done so, within 60 days of the effective date of this decision, Respondent shall submit to the Board or its designee, for prior approval, a community service program in which Respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least 100 hours during the first year of probation. Within 30 days of Board approval thereof, Respondent shall submit documentation to the Board demonstrating commencement of the community service program. A record of this notification must be provided to the Board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

19. Ethics Course

If she has not already done so, 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.

Dated: March 28, 2016

DocuSigned by:
H. Stuart Waxman
298AF76351A24EC...

H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

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

11 In the Matter of the Accusation and Petition to
Revoke Probation Against,

Case No. 5403

12 **MEGAN BRIGID HARWOOD**
13 2931 Delor Drive
Los Angeles, CA 90032
14

**ACCUSATION AND
PETITION TO REVOKE PROBATION**

15 Pharmacist License No. RPH 60791

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about March 7, 2008, the Board of Pharmacy issued Pharmacist License
24 Number RPH 60791 to Megan Brigid Harwood (Respondent). The Pharmacist License was in
25 effect at all times relevant to the charges brought herein and will expire on July 31, 2015, unless
26 renewed.

27 3. In a disciplinary action entitled "*In the Matter of Accusation Against Megan Brigid*
28 *Harwood*," Case No. 3526, the Board of Pharmacy, issued a decision, effective November 23,

1 2011, in which Respondent's Pharmacist License was revoked. However, the revocation was
2 stayed and Respondent's Pharmacist License was placed on probation for a period of three (3)
3 years with certain terms and conditions. Furthermore, Respondent's probation was tolled for a
4 period of time and is now scheduled to end on February 22, 2015. A copy of that decision is
5 attached as Exhibit A and is incorporated by reference.

6 **ACCUSATION - JURISDICTION**

7 4. This Accusation is brought before the Board under the authority of the following
8 laws. All section references are to the Business and Professions Code (Code) unless otherwise
9 indicated.

10 5. Section 4300 of the Code states, in pertinent part:

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

12 "(b) The board shall discipline the holder of any license issued by the board, whose
13 default has been entered or whose case has been heard by the board and found guilty, by any of
14 the following methods:

15 "(1) Suspending judgment.

16 "(2) Placing him or her upon probation.

17 "(3) Suspending his or her right to practice for a period not exceeding one year.

18 "(4) Revoking his or her license.

19 "(5) Taking any other action in relation to disciplining him or her as the board in its
20 discretion may deem proper."

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

25 6. Section 4300.1 of the Code states, in pertinent part:

26 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
27 operation of law or by order or decision of the board or a court of law, the placement of a license
28 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board

1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 **STATUTES AND REGULATIONS**

4 7. Section 4301 of the Code states, in pertinent part:

5 The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8

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

12

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

18

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

21

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

26 (p) Actions or conduct that would have warranted denial of a license. . . ."

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1 8. Health and Safety Code section 11550, subdivision (a), states, in pertinent part:
2 "No person shall use, or be under the influence of any controlled substance which is
3 (1) specified in subdivision (b), (c), or (e), or paragraph (1) of subdivision (f) of Section 11054,
4 specified in paragraph (14), (15), (21), (22), or (23) of subdivision (d) of Section 11054, specified
5 in subdivision (b) or (c) of Section 11055, or specified in paragraph (1) or (2) of subdivision (d)
6 or in paragraph (3) of subdivision (e) of Section 11055, or (2) a narcotic drug classified in
7 Schedule III, IV, or V, except when administered by or under the direction of a person licensed
8 by the state to dispense, prescribe, or administer controlled substances. . . ."

9 **CONTROLLED SUBSTANCE / DANGEROUS DRUG**

10 9. Adderall, a trade name for a combination drug containing amphetamine and
11 dextroamphetamine, is a Scheduled II controlled substance pursuant to Health and Safety Code
12 section 11055, subdivision (d)(1), and is a dangerous drug pursuant to section 4022 of the Code.

13 10. Amphetamine is a Scheduled II controlled substance as defined in Health and Safety
14 Code section 11055, subdivision (d)(1), and is a dangerous drug pursuant to section 4022 of the
15 Code.

16 11. Benzodiazepine is a Schedule IV controlled substance pursuant to Health and Safety
17 Code section 11057, subdivision (d), and is a dangerous drug pursuant to section 4022 of the
18 Code.

19 12. Buprenorphine is a Schedule V controlled substance pursuant to Health and Safety
20 Code section 11058, subdivision (d), and is a dangerous drug pursuant to section 4022 of the
21 Code.

22 13. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety
23 Code section 11055, subdivision (b)(1)(I), and is a dangerous drug pursuant to section 4022 of the
24 Code.

25 14. Marijuana, hashish and tetrahydrocannabinols (concentrated marijuana) are
26 hallucinogenic Schedule I controlled substances under State and federal law. (§11054, subds.
27 (d)(13) and (20); 21 U.S.C. § 812.) Marijuana is also a dangerous drug as defined in Business
28 and Professions Code section 4022. Possession of a controlled substance is illegal under federal

1 law (21 U.S.C. § 844), and the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) prohibits a
2 person from possessing any controlled substance without a valid prescription. (Bus. & Prof.
3 Code, § 4060.) (*In the Matter of Accusation Against Daniel Mark Kaldas* (2013) Board of
4 Pharmacy, Department of Consumer Affairs, No. 4176, p. 7.)

5 15. Norco, a brand name for a combination drug containing Hydrocodone and
6 Acetaminophen (APAP), is a Schedule III controlled substance pursuant to Health and Safety
7 Code section 11056, subdivision (e), and is a dangerous drug pursuant to section 4022 of the
8 Code.

9 16. Nordiazepam, a benzodiazepine, is a Schedule III controlled substance pursuant to
10 Health and Safety Code section 11056, subdivision (b)(2), and is a dangerous drug pursuant to
11 section 4022 of the Code.

12 17. Oxazepam, a benzodiazepine, is a Schedule III controlled substance pursuant to
13 Health and Safety Code section 11056, subdivision (b)(2), and is a dangerous drug pursuant to
14 section 4022 of the Code.

15 18. Suboxone, a brand name for a combination drug containing buprenorphine and
16 naloxone, is classified as a Schedule IV controlled substance pursuant to Health and Safety Code
17 section 11058, subdivision (d), and is a dangerous drug pursuant to section 4022 of the Code.

18 19. Tramadol is a dangerous drug pursuant to section 4022 of the Code.

19 20. Temazepam is a Schedule IV controlled substance pursuant to Health and Safety
20 Code section 11057, subdivision (d)(29), and is a dangerous drug pursuant to section 4022 of the
21 Code.

22 COST RECOVERY

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

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

3 22. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),
4 on the grounds of unprofessional conduct, in that Respondent committed acts involving moral
5 turpitude, dishonesty, fraud, deceit, or corruption. On or about November 20, 2014, an
6 Alhambra Police Department officer responded to a petty theft report at Kohl's. Upon arriving at
7 Kohl's, the officer contacted a Kohl's loss prevention associate, and learned that Respondent had
8 concealed unpaid merchandises inside her bag and walked outside of the store. The loss
9 prevention associate had escorted Respondent to loss prevention office, but Respondent was upset
10 and tried to leave the office. Respondent was arrested for violating Penal Code section 484,
11 subdivision (a) [petty theft]. At the time of booking, Respondent listed her occupation as
12 "TECH," instead of pharmacist. *People of the State of California v. Megan Brigid Harwood*
13 (Muni. Ct., Alhambra Dist., L.A. County, No. 4AH05041) is pending for adjudication.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Under the Influence of Controlled Substance / Dangerous Drugs)**

16 23. Respondent is subject to disciplinary action under sections 4300, subdivision (a), and
17 4301, subdivisions (h) and (j), on the grounds of unprofessional conduct, in conjunction with
18 Health and Safety Code section 11550, in that Respondent administered to himself controlled
19 substances, and/or dangerous drugs without valid prescriptions, as follows:

- 20 a. On or about May 9, 2012 and May 16, 2012, Respondent tested positive for
21 Amphetamine.
22 b. On or about July 10, 2014, Respondent tested positive for Marijuana.
23 c. On or about November 20, 2014, Respondent tested positive for Buprenorphine.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct / Violating Pharmacy Law)**

26 24. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
27 (o) and (p), in that Respondent committed acts violating the Pharmacy Law and / or federal and
28 state laws that would have warranted denial of a license. Complainant refers to and by this

1 reference incorporates the allegations set forth above in paragraph 22, inclusive, as though set
2 forth fully.

3 **PETITION TO REVOKE PROBATION**

4 25. This Petition to Revoke Probation is brought before the Board under the authority of
5 the following laws. All section references are to the Business and Professions Code (Code)
6 unless otherwise indicated.

7 26. This Petition to Revoke Probation is brought before the Board under Probation Term
8 and Condition Number 14 of the Decision and Order of the Board in "*In the Matter of Accusation*
9 *Against Megan Brigid Harwood*," Case No. 3526. That term and condition states:

10 **"Violation of Probation:**

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

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

25 27. The Board issued a Decision and Order effective on November 23, 2011, in which
26 Respondent's Pharmacist License was placed on probation for three (3) years with certain terms
27 and conditions. Furthermore, Respondent's probation was tolled for a period of time and is now
28 scheduled to end on February 22, 2015.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

28 28. At all times after the effective date of Respondent's probation, Condition 1 stated:

"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
seventy-two (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

1 - a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment

2 - a conviction of any crime

3 - discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

5
6 29. Respondent's probation is subject to revocation because she failed to comply with
7 Probation Condition 1, referenced above. The facts and circumstances regarding this violation
8 are as follows:

9 b. Respondent failed to obey all state laws and regulations on or about November 20,
10 2014. Complainant refers to, and by this reference incorporates, the allegations set forth above in
11 paragraph 9, inclusive, as though set forth fully.

12 c. Respondent failed to submit, in writing, a full and detailed account of any and all
13 violations of the law to the Board within seventy-two (72) hours of such occurrence.

14 **SECOND CAUSE TO REVOKE PROBATION**

15 **(Failure to Pay Reimbursement of Board costs)**

16 30. At all times after the effective date of Respondent's probation, Condition 8 stated:

17 **“Reimbursement of Board Costs:**

18 As a condition precedent to successful completion of probation, Respondent
19 shall pay to the Board its costs of investigation and prosecution in the amount of
20 \$5,400. Respondent shall make said payments as follows: Beginning within thirty
days of the effective date of this Decision and Order, Respondent shall make thirty-
six consecutive monthly payments to the Board in the amount of \$150.00. “

21 31. Respondent's probation is subject to revocation because she failed to comply with
22 Probation Condition 8, referenced above. The facts and circumstances regarding this violation
23 are as follows:

24 a. On or about September 12, 2012, the Board sent Respondent a letter informing her of
25 her failure to submit payments in June and August, 2012, in the amount of \$300 no later than
26 September 26, 2012.

27 b. On or about September 26, 2012, Respondent failed to submit her payments to the
28 Board.

1 a. Respondent did not inform the Board that she changed her name due to marriage
2 during her probationary term.

3 b. On or about October 5, 2014, Respondent filled a prescription for Buprenorphine
4 prescribed under the name "Megan Gurnari."

5 c. On or about January 20, 2015, Respondent sent an email to the Board stating that she
6 has not changed her name no plans to legally change her name with the Board or on her license.

7 d. On or about January 29, 2015, Respondent provided a marriage certificate from her
8 marriage in the state of New York on or about April 4, 2014, which lists her new surname as
9 Harwood-Gurnari.

10 **FIFTH CAUSE TO REVOKE PROBATION**

11 **(Failure to be Employed as a Pharmacist)**

12 36. At all times after the effective date of Respondent's probation, Condition 13 stated:

13 **"Tolling of Probation:**

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

21 37. Respondent's probation is subject to revocation because she failed to comply with
22 Probation Condition 13, referenced above, in that on or about September 12, 2012, the Board sent
23 Respondent a letter stating that the Board's records indicate Respondent's last date of
24 employment with CVS #1573 was February 17, 2012. Respondent's probation was tolled from
25 March through April, 2012. Due to a period of unemployment, her probation had been tolled and
26 her new anticipated probation end date had been extended from November 22, 2014 to February
27 22, 2015.

28 **SIXTH CAUSE TO REVOKE PROBATION**

(Failure to Abstain from Drugs and Alcohol Use)

38. At all times after the effective date of Respondent's probation, Condition 18 stated:

"Abstain from Drugs and Alcohol Use:

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

14 39. Respondent's probation is subject to revocation because she failed to comply with
15 Probation Condition 18, referenced above. The facts and circumstances regarding this violation
16 are as follows:

17 a. On or about May 24, 2012, the Board sent Respondent a letter stating that she had
18 tested positive for Hydrocodone and Amphetamine on multiple drug screenings, however, the
19 prescriptions for these controlled substances on file with the Board were outdated as she had
20 only provided prescriptions written on November 22, 2011 and December 2, 2011. The
21 prescriptions prescribed within the last six months for Hydrocodone /APAP and Adderall were
22 requested to be sent within 10 days.

23 b. On or about June 6, 2012, Respondent provided current prescriptions for
24 Hydrocodone-Acetaminophen (Norco) and Adderall.

25 c. On or about July 1, 2013, the Board sent Respondent a non-compliance letter stating
26 that she had not been providing her updated prescription records to the Board and that if the
27 Board did not have the current prescription on file for a drug detected in a drug screen, her
28 license was subject to suspension.

29 d. On January 31, 2014, the Board sent Respondent a Notice of Suspension due to a
30 positive drug screening for Tramadol. Respondent was again advised that her license was
31 suspended and she was directed to submit a written explanation for the positive drug test to the
32 board, as well as legible copies of any or all recent prescriptions within five days of the notice

33 e. On or about February 1, 2014, the Board received an email from Respondent stating
34 that she had received a prescription for Tramadol on or about January 10, 2014 and that she did

1 not think she had to provide the prescription as it was not a controlled substance. Respondent
2 provided a copy of the prescription for Tramadol.

3 f. On or about February 3, the Board sent Respondent a letter stating the suspension for
4 the positive drug test for Tramadol had been lifted and that Respondent was authorized to return
5 to work.

6 g. On or about February 24, 2014, the Board sent Respondent a second Notice of
7 Suspension due to a positive drug screening for Phosphatidyl Ethanol (alcohol). Respondent was
8 again advised that her license was suspended and she was directed to submit a written explanation
9 for the positive drug test to the board, as well as legible copies of any or all recent prescriptions
10 within five days of the notice

11 h. On or about February 26, 2014, Respondent disputed the positive results for alcohol
12 and stated her belief that the positive drug screen must be a case of mistaken identity.

13 i. On or about March 4, 2014, after a further lab test was conducted for the positive
14 drug screen for alcohol, the test result concluded that the positive alcohol test was at a level that
15 have the chronic ingestion of Iberogast as one of the possible causes of the result. Iberogast is a
16 medication, a blend of herbs, that contains alcohol.

17 h. On or about March 11, 2014, Respondent send an email to the Board providing a
18 copy of a prescription for Iberogast.

19 i. On or about March 12, 2014, the Board sent Respondent a letter stating the
20 suspension for the positive drug test for Tramadol had been lifted and that Respondent was
21 authorized to return to work.

22 k. On or about July 10, 2014, the Board sent Respondent a third Notice of Suspension
23 due to a positive drug screening for Marijuana. Respondent was again advised that her license
24 was suspended and she was directed to submit a written explanation for the positive drug test to
25 the board, as well as legible copies of any or all recent prescriptions within five days of the
26 notice.

27 l. On or about July 11, 2014, Respondent emailed the Board with an explanation of her
28 Marijuana usage and attached an authorization dated December 6, 2013.

1 ///

2 m. On or about July 11, 2014, the Board responded to Respondent's email stating that
3 the authorization on file at the Board is for the compassionate use of marijuana dated October 15,
4 2010, and the suspension was lifted.

5 n. On or about November 24, 2014, the Board received positive drug test result for
6 Respondent for Amphetamine, Nordiazepam, Oxazepam, Marijuana Metabolite, Temazepam, and
7 Buprenorphine.

8 o. On or about January 7, 2015, a supervising inspector from the Board further reviewed
9 Respondent's medications and confirmed that the prescriptions listed by Respondent did not
10 account for the positive result for buprenorphine. Also, a doctor at FirstLab further confirmed
11 that the previously provided prescriptions would not account for a positive result for
12 buprenorphine.

13 p. On or about January 7, 2015, the Board sent Respondent a fourth Notice of
14 Suspension due to a positive drug screening for buprenorphine. Respondent was again advised
15 that her license was suspended and she was directed to submit a written explanation for the
16 positive drug test to the board, as well as legible copies of any or all recent prescriptions within
17 five days of the notice.

18 q. On or about January 8, 2015, Respondent supplied to the Board a prescription for
19 buprenorphine (Suboxone) under the name, Megan Guarnari, which is not her legal name.

20 r. On or about January 12, 2015, Respondent provided an updated comprehensive list of
21 her medications and diagnoses via email, however, Respondent failed to list Marijuana, for which
22 she regularly tests positive.

23 s. On or about January 15, 2015, Respondent provided to the Board a further
24 explanation of her use of buprenorphine.

25 Complainant refers to and by this reference incorporates the allegations set forth above in
26 paragraph 23, subparagraphs a through c, inclusive, as though set forth fully.

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r. On or about January 12, 2015, Respondent provided an updated comprehensive list of her medications and diagnoses via email, however, Respondent failed to list Marijuana, for which she regularly tests positive.

s. On or about January 15, 2015, Respondent provided to the Board a further explanation of her use of buprenorphine.

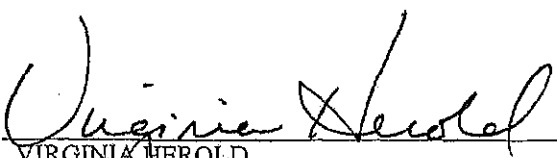
Complainant refers to and by this reference incorporates the allegations set forth above in paragraph 23, subparagraphs a through c, inclusive, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged in this Accusation and Petition to Revoke Probation, and that following the hearing, the Board issue a decision:

1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3526 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License No. RPH 60791 issued to Megan Brigid Harwood;
2. Revoking or suspending Pharmacist License No. RPH 60791, issued to Megan Brigid Harwood;
3. Ordering Megan Brigid Harwood to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 2/18/15



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

LA2015500313
51697880_3.doc

Exhibit A

**Decision and Order
Board of Pharmacy Case No. 3526**

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

In the Matter of the Accusation Against:

Case No. 3526

MEGAN BRIGID HARWOOD
1215 S. Citrus Avenue
Los Angeles, CA 90019

Pharmacist License No. RPH 60791

Respondent.

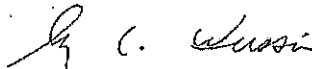
DECISION AND ORDER

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 23, 2011.

It is so ORDERED on October 24, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 RANDY M. MAILMAN
Deputy Attorney General
4 State Bar No. 246134
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2442
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3526

11 **MEGAN BRIGID HARWOOD**
12 **1215 S. Citrus Avenue**
Los Angeles, CA 90019
13 **Pharmacist License No. RPH 60791**

OAH No. L-2011030351
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

14 Respondents.

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 Accusation
20 solely with respect to Megan Brigid Harwood..

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 Randy M. Mailman, Deputy Attorney
25 General.

26 2. Megan Brigid Harwood ("Respondent") is represented in this proceeding by attorney
27 Samuel Spital, whose address is: 8880 Rio San Diego Drive, Ste 800, San Diego, CA 92108-
28 1642.

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

3 CONTINGENCY

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

13 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
14 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
15 effect as the originals.

16 12. 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 13. 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 60791 issued to Respondent
27 Megan Brigid Harwood ("Respondent") is revoked. However, the revocation is stayed and
28 Respondent is placed on probation for three (3) years on the following terms and conditions.

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1. 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 seventy-two (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
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. Report to the Board

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

3. Interview with the Board

Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board

1 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
2 during the period of probation, shall be considered a violation of probation.

3 **4. Cooperate with Board Staff**

4 Respondent shall cooperate with the Board's inspection program and with the Board's
5 monitoring and investigation of Respondent's compliance with the terms and conditions of her
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **5. Continuing Education**

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

10 **6. Notice to Employers**

11 During the period of probation, Respondent shall notify all present and prospective
12 employers of the decision in case number 3526 and the terms, conditions and restrictions imposed
13 on Respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
16 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
17 tenure of employment) and owner to report to the Board in writing acknowledging that the listed
18 individual(s) has/have read the decision in case number 3526, and terms and conditions imposed
19 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
20 supervisor(s) submit timely acknowledgment(s) to the Board.

21 If Respondent works for or is employed by or through a pharmacy employment service,
22 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the Board of the terms and conditions of the decision in case number 3526 in advance
24 of the Respondent commencing work at each licensed entity. A record of this notification must
25 be provided to the Board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of Respondent undertaking any new employment by or through a pharmacy
28 employment service, Respondent shall cause her direct supervisor with the pharmacy

1 employment service to report to the Board in writing acknowledging that she has read the
2 decision in case number 3526 and the terms and conditions imposed thereby. It shall be
3 Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s) to the Board.

5 Failure to timely notify present or prospective employer(s) or to cause that/those
6 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
7 probation.

8 "Employment" within the meaning of this provision shall include any full-time,
9 part-time, temporary, relief or pharmacy management service as a pharmacist or any
10 position for which a pharmacist license is a requirement or criterion for employment,
11 whether the Respondent is an employee, independent contractor or volunteer.

12 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
13 **Designated Representative-in-Charge, or Serving as a Consultant**

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

18 **8. Reimbursement of Board Costs**

19 As a condition precedent to successful completion of probation, Respondent shall pay to the
20 Board its costs of investigation and prosecution in the amount of \$5,400. Respondent shall make
21 said payments as follows: Beginning within thirty days of the effective date of this Decision and
22 Order, Respondent shall make thirty-six consecutive monthly payments to the Board in the
23 amount of \$150.00.

24 There shall be no deviation from this schedule absent prior written approval by the Board or
25 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
26 probation.

27 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
28 to reimburse the Board its costs of investigation and prosecution.

1 **9. Probation Monitoring Costs**

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

6 **10. Status of License**

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

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

14 **11. License Surrender While on Probation/Suspension**

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

22 Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license
23 to the Board within ten (10) days of notification by the Board that the surrender is accepted.
24 Respondent may not reapply for any license from the Board for three (3) years from the effective
25 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
26 of the date the application for that license is submitted to the Board, including any outstanding
27 costs.

28

1 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

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

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

10 **13. Tolling of Probation**

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

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

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

25 "Cessation of practice" means any calendar month during which Respondent is
26 not practicing as a pharmacist for at least 40 hours, as defined by Business and
27 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
28

1 month during which Respondent is practicing as a pharmacist for at least 40 hours as
2 a pharmacist as defined by Business and Professions Code section 4000 et seq.

3 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
4 dispenses medication for a minimum of one year prior to the completion of probation. After the
5 first year of probation, the Board or its designee may consider a modification of this requirement.
6 If Respondent fails to comply with this requirement or a subsequent modification thereto, such
7 failure shall be considered a violation of probation.

8 **14. Violation of Probation**

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

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

21 **15. Completion of Probation**

22 Upon written notice by the Board or its designee indicating successful completion of
23 probation, Respondent's license will be fully restored.

24 **16. Random Drug Screening**

25 Respondent, at her own expense, shall participate in random testing, including but not
26 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
27 screening program as directed by the Board or its designee. Respondent may be required to
28 participate in testing for the entire probation period and the frequency of testing will be

1 determined by the Board or its designee. At all times, Respondent shall fully cooperate with the
2 Board or its designee, and shall, when directed, submit to such tests and samples for the detection
3 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or
4 its designee may direct. Failure to timely submit to testing as directed shall be considered a
5 violation of probation. Upon request of the Board or its designee, Respondent shall provide
6 documentation from a licensed practitioner that the prescription for a detected drug was
7 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely
8 provide such documentation shall be considered a violation of probation. Any confirmed positive
9 test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a
10 documented medical treatment shall be considered a violation of probation and shall result in the
11 automatic suspension of practice of pharmacy by Respondent. Respondent may not resume the
12 practice of pharmacy until notified by the Board in writing.

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

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

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

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

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

2 In the event that any of Respondent's biological samples confirm positive for any drug not
3 lawfully prescribed by a licensed practitioner as part of a documented medical treatment,
4 Respondent shall within thirty (30) days of the confirmed positive test, contact the Pharmacists
5 Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully
6 participate in, and complete the treatment contract and any subsequent addendums as
7 recommended and provided by the PRP and as approved by the board or its designee. The costs
8 for PRP participation shall be borne by the respondent.

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

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

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

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

21 **18. Abstain from Drugs and Alcohol Use**

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

1 individuals who are using illicit substances even if Respondent is not personally ingesting the
2 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
3 not supported by the documentation timely provided, and/or any physical proximity to persons
4 using illicit substances, shall be considered a violation of probation.

5 **19. Community Services Program**

6 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
7 Board or its designee, for prior approval, a community service program in which Respondent
8 shall provide free health-care related services on a regular basis to a community or charitable
9 facility or agency for at least 100 hours during the first year of probation. Within thirty (30) days
10 of Board approval thereof, Respondent shall submit documentation to the Board demonstrating
11 commencement of the community service program. A record of this notification must be
12 provided to the Board upon request. Respondent shall report on progress with the community
13 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
14 program shall be considered a violation of probation.

15 **20. Ethics Course**

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

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

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28

1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Samuel Spital. I understand the stipulation and the effect it will
4 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Pharmacy.

7
8 DATED: 8/7/2011


9 MEGAN BRIGID HARWOOD
Respondent

10 I have read and fully discussed with Respondent Megan Brigid Harwood the terms and
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
12 I approve its form and content.

13 DATED: 8/7/11


14 Samuel Spital
Attorney for Respondent

15
16 **ENDORSEMENT**

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

19
20 DATED: _____

Respectfully submitted,

21 KAMALA D. HARRIS
Attorney General of California
22 KAREN B. CHAPPELLE
Supervising Deputy Attorney General

23
24
25 RANDY M. MAILMAN
Deputy Attorney General
Attorneys for Complainant

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Samuel Spital. 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: _____
MEGAN BRIGID HARWOOD
Respondent

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

DATED: _____
Samuel Spital
Attorney for Respondent

ENDORSEMENT

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

DATED: August 8, 2011

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General



RANDY M. MAILMAN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3526

1 EDMUND G. BROWN JR.
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 State Bar No. 141267
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-8944
5 Facsimile: (213) 897-2804

6 *Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:
11 **MEGAN BRIGID HARWOOD**
12 **1215 S. Citrus Avenue**
Los Angeles, CA 90019
13
14 **Pharmacist License No. RPH 60791**
15 Respondent.

Case No. 3526

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about March 7, 2008, the Board of Pharmacy (Board) issued Pharmacist
22 License No. RPH 60791 to Megan Brigid Harwood (Respondents). The Pharmacist License was
23 in full force and effect at all times relevant to the charges brought herein and will expire on July
24 31, 2011, unless renewed.

25 **JURISDICTION**

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

28 ///

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

4 7. Section 4300 provides, in pertinent part, that every license issued by the Board is
5 subject to discipline, including suspension or revocation.

6 8. Section 4301 states, in pertinent part:

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

10

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

14

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

17

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

22 **CONTROLLED SUBSTANCES**

23 9. "Ambien" a generic name for zolpidem tartrate, a nonbarbiturate hypnotic, is a
24 Schedule IV controlled substance as designated by Health and safety Code section 11057,
25 subdivision (d)(32), and is categorized as a dangerous drug pursuant to Business and Professions
26 Code section 4022.

27 10. "Amphetamine" is a Schedule II controlled substance as defined in Health and Safety
28 Code section 11055(d)(1) and is categorized as a dangerous drug pursuant to Business and

1 Professions Code section 4022.

2 11. "Benzodiazepine" is a dangerous drug according to Business and Professions Code
3 section 4022. It is a Schedule IV controlled substance as defined in Health and safety Code
4 section 11057(d).

5 12. "Buprenorphine" and all products containing buprenorphine are controlled in
6 Schedule III of the Controlled Substances Act.

7 13. "Lunesta" a trade name for eszopiclone a S-isomer of zopiclone, is a Schedule IV
8 controlled substance as designated by Health and Safety Code section 11057, subdivision (d), and
9 is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

10 14. "Phentermine" a stimulant, is classified as a Schedule IV controlled substance
11 pursuant to the Health and Safety Code section 11057, subdivision (f)(4), and is a dangerous drug
12 within the meaning of Business and Professions Code section 4022.

13 15. "Ultram" a brand name for tramadol, an effective pain reliever (analgesic) and is
14 categorized as a dangerous drug pursuant to section 4022 of the Code.

15 16. "Valium" a trade name for the chemical substance diazepam, a benzodiazepam
16 derivative, is a Schedule IV controlled substance as designated by Health and Safety Code section
17 11057(d)(9) and is categorized as a dangerous drug pursuant to Business and Professions Code
18 section 4022.

19 17. "Vicoprofen" is the brand name for a fixed combination of hydrocodone, a narcotic
20 and controlled substance, and ibuprofen, an anti-inflammatory and analgesic, a Schedule III
21 controlled narcotic substance pursuant to Health and Safety Code section 11056(b)(4) and a
22 dangerous drug pursuant to Business and Professions Code section 4022(c).

23 COST RECOVERY

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

28 FIRST CAUSE FOR DISCIPLINE

1 (Possession of Controlled Substances)

2 19. Respondent is subject to disciplinary action under section 4301, subdivisions (j)
3 and/or (o), in that on or about February 8, 2009, Respondent was found to be in possession of
4 controlled substances and dangerous drugs in violation of code section 4060 without valid
5 prescriptions as follows:

6 a. On or about February 8, 2009, while at the Peace Arch Port of Entry (U.S./Canada
7 border), The Customs Border Protection Officer found Respondent in possession of a large
8 suitcase containing controlled substances, 1 Adderalol, a derivative of Amphetamine, 6
9 Suboxone, a derivative of Buprenorphine, 1 Vicoprofen, 6 Lunesta, 13 Ambien, 1 Valium, 2 1/2
10 Halcion, a derivative of Benzodiazepine, 1 1/2 Adipex-D, a derivative of Phentermine, Ultram,
11 and 4 Valtrex, 1 Inderal, 1 Celecoxib, 1 Clariten, and 2 Azithromycin, classified as dangerous
12 drugs.

13 b. On or about November 19, 2009, after Respondent filed a "*Statement on Plea of*
14 *Gilty*" with the Court, Respondent was convicted of one misdemeanor count of violating Revised
15 Code of Washington section 69.50.412 [use of drug paraphernalia], in the criminal proceeding
16 entitled *The People of the State of Washington v. Megan Brigid Harwood* (Super. Ct. Whatcom
17 County, 2009, No. 09-1-00176-9). The Court placed Respondent on Deferred Entry of Judgment
18 for 24 months.

19 SECOND CAUSE FOR DISCIPLINE

20 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

21 20. Respondent is subject to disciplinary action under section 4301, subdivisions (f), in
22 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or
23 corruption. Complainant refers to, and by this reference incorporates, the allegations set forth
24 above in paragraph 12, subparagraphs (a) and (b), as though set forth fully.

25 PRAYER

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

28 1. Revoking or suspending Pharmacist License No. RPH 60791, issued to Megan Brigid

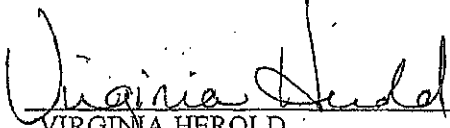
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Harwood;

2. Ordering Megan Brigid Harwood to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 11/3/10



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

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