

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

In the Matter of the Statement of Issues Against:

ADARSH KONDA

Applicant for Intern Pharmacist License

Respondent.

Case No. 6044

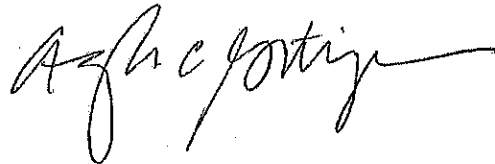
DECISION AND ORDER

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 at 5:00 p.m. on November 30, 2017.

It is so ORDERED on October 31, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

10 In the Matter of the Statement of Issues Against: Case No. 6044

11 **ADARSH KONDA**

12 **Applicant for Intern Pharmacist License**

13 Respondent.

14 **STIPULATED SETTLEMENT AND**
DISCIPLINARY ORDER

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

19 **PARTIES**

20 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy (Board),
21 brought this action solely in her official capacity and is represented by Xavier Becerra, Attorney
22 General of the State of California, by Joshua A. Room, Supervising Deputy Attorney General.

23 2. Respondent Adarsh Konda (Respondent) is represented in this proceeding by attorney
24 Ivan Petrzelka, PharmD, JD, MBA, Gemini Law, whose address is: P.O. Box 552
25 Red Bluff, CA 96080 (telephone (530) 387-2452).

26 3. On or about September 14, 2016, Respondent filed an application dated August 16,
27 2016, with the Board to obtain an Intern Pharmacist License. The Board denied that application
28 on or about January 6, 2017, and Respondent appealed that denial.

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JURISDICTION

4. Statement of Issues No. 6044 was filed before the Board, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on August 14, 2017. A copy of Statement of Issues No. 6044 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the allegations in Statement of Issues No. 6044. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 6044.

9. Respondent agrees that his application for licensure is subject to denial and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

RESERVATION

10. Admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

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CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

22
23 IT IS HEREBY ORDERED that Respondent's application is granted. Upon completion of
24 all statutory and regulatory requirements for licensure, an Intern Pharmacist License will be
25 issued to Respondent Adarsh Konda and immediately revoked. The revocation will be stayed and
26 Respondent placed on five (5) years probation on the following terms and conditions.

27 IT IS FURTHER HEREBY ORDERED that, should Respondent subsequently be issued a
28 Pharmacist License by the Board, any remaining tenure and terms and conditions of probation

1 shall apply to that License. That is, upon satisfaction of statutory and regulatory requirements for
2 issuance thereof, a Pharmacist License shall be issued to Respondent and shall be immediately
3 revoked, with the revocation stayed and Respondent placed on probation for the remainder of the
4 five (5) years originally ordered (unless extended), on the following terms and conditions.

5 **1. Obey All Laws**

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

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

- 9 • an arrest or issuance of a criminal complaint for violation of any provision of the
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
11 substances laws
12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
13 criminal complaint, information or indictment
14 • a conviction of any crime
15 • discipline, citation, or other administrative action filed by any state or federal agency
16 which involves respondent's license(s) or which is related to the practice of pharmacy
17 or the manufacturing, obtaining, handling, distributing, billing, or charging for any
18 drug, device or controlled substance.

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

20 **2. Report to the Board**

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

1 **3. Interview with the Board**

2 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
3 with the board or its designee, at such intervals and locations as are determined by the board or its
4 designee. Failure to appear for any scheduled interview without prior notification to board staff,
5 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
6 the period of probation, shall be considered a violation of probation.

7 **4. Cooperate with Board Staff**

8 Respondent shall cooperate with the board's inspection program and with the board's
9 monitoring and investigation of respondent's compliance with the terms and conditions of his
10 probation. Failure to cooperate shall be considered a violation of probation.

11 **5. Continuing Education**

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

14 **6. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 6044 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 respondent undertaking any new employment, respondent shall cause his direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 6044, and terms and conditions imposed
23 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
24 submit timely acknowledgment(s) to the board. If respondent works for or is employed by or
25 through a pharmacy employment service, respondent must notify his direct supervisor,
26 pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions
27 of the decision in case number 6044 in advance of the respondent commencing work at each
28 licensed entity. A record of this notification must be provided to the board upon request.

1 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
2 (15) days of respondent undertaking any new employment by or through a pharmacy employment
3 service, respondent shall cause his direct supervisor with the pharmacy employment service to
4 report to the board in writing acknowledging that he has read the decision in case number 6044
5 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
6 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

7 Failure to timely notify present or prospective employer(s) or to cause employer(s) to
8 submit timely acknowledgments to the board shall be considered a violation of probation.

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

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

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

19 **8. Probation Monitoring Costs**

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

24 **9. Status of License**

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

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

5 **10. Ethics Course**

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

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

12 **11. Employment Requirement: Tolling of Probation**

13 Except during periods of suspension, respondent shall, at all times while on probation, be
14 employed for the following minimum number of hours per calendar month in California:

15 If he holds only an intern pharmacist license, he shall be employed as an intern pharmacist
16 as required by any pharmacy program in which he is enrolled. If he holds a pharmacist license,
17 he shall be employed as a pharmacist in California for a minimum of forty (40) hours per month.

18 Any month during which the applicable minimum is not met tolls the period of probation,
19 i.e., the period of probation is extended by one month for each month in which the minimum is
20 not met. During any period of tolling, respondent must comply with all terms and conditions of
21 probation. Should respondent, regardless of residency, for any reason (including vacation) cease
22 practicing for the applicable minimum number of hours per calendar month in California,
23 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
24 must further notify the board in writing within ten (10) days of the resumption of practice. Any
25 failure to provide such notification(s) shall be considered a violation of probation.

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

1 "Cessation of practice" means any calendar month during which respondent is
2 not practicing as an intern pharmacist or pharmacist as defined by Business and
3 Professions Code section 4000 et seq. for the applicable minimum number of hours.
4 "Resumption of practice" means any calendar month during which respondent is
5 practicing as an intern pharmacist or pharmacist as defined by Business and
6 Professions Code section 4000 et seq. for the applicable minimum number of hours.

7 **12. Notification of Change in Employment, Name, Address(es), or Phone(s)**

8 Respondent shall notify the board in writing within ten (10) days of any change of
9 employment. Said notification shall include the reasons for leaving, the address of the new
10 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
11 shall also notify the board in writing within ten (10) days of a change in name, residence address,
12 mailing address, or phone number. Failure to timely notify the board of a change in employer(s),
13 name(s), address(es), or phone number(s) shall be considered a violation of probation.

14 **13. Supervised Practice**

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

20 Continuous - At least 75% of a work week

21 Substantial - At least 50% of a work week

22 Partial - At least 25% of a work week

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

24 Within thirty (30) days of the effective date of this decision, respondent shall have his
25 supervisor submit notification to the board in writing stating that the supervisor has read the
26 decision in case number 6044 and is familiar with the required level of supervision as determined
27 by the board or its designee. It shall be respondent's responsibility to ensure that his employer(s),
28 pharmacist-in-charge and/or supervisor(s) submit timely acknowledgment(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.

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1 If respondent changes employment, it shall be the respondent's responsibility to ensure that
2 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgment(s) to
3 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
4 commences, submit notification to the board in writing stating the direct supervisor and
5 pharmacist-in-charge have read the decision in case number 6044 and are familiar with the level
6 of supervision as determined by the board. In this circumstance, respondent shall not practice
7 pharmacy and his license shall be automatically suspended until the board or its designee
8 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
9 submit timely acknowledgements to the board shall be considered a violation of probation.

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

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

22 Failure to comply with any such suspension shall be considered a violation of probation.

23 **14. Pharmacists Recovery Program (PRP)**

24 Within thirty (30) days of the effective date of this decision, respondent shall contact the
25 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
26 successfully participate in, and complete the treatment contract and any subsequent addendums as
27 recommended and provided by the PRP and as approved by the board or its designee. The costs
28 for PRP participation shall be borne by the respondent.

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

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

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

10 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
11 licensed practitioner as part of a documented medical treatment shall result in the automatic
12 suspension of practice by respondent and shall be considered a violation of probation.

13 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

1 **15. Random Drug Screening**

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

10 Upon request of the board or its designee, respondent shall provide documentation from a
11 licensed practitioner that the prescription for a detected drug was legitimately issued and is a
12 necessary part of the treatment of the respondent. Failure to timely provide such documentation
13 shall be considered a violation of probation.

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

18 During any such suspension, respondent shall not enter any pharmacy area or any portion of
19 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor
20 of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and
21 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do
22 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or
23 patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee
24 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous
25 drugs and controlled substances. Respondent shall not engage in any activity that requires the
26 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
27 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
28 designated representative for any entity licensed by the board.

1 Failure to comply with any such suspension shall be considered a violation of probation.

2 **16. Abstain from Drugs and Alcohol Use**

3 Respondent shall completely abstain from the possession or use of alcohol, controlled
4 substances, dangerous drugs or their paraphernalia except when the drugs are lawfully prescribed
5 by a licensed practitioner as part of a documented medical treatment. Upon request of the board
6 or its designee, respondent shall provide documentation from the licensed practitioner that the
7 prescription for the drug was legitimately issued as a necessary part of treatment of respondent.
8 Failure to timely provide such documentation shall be considered a violation of probation.

9 Respondent shall ensure he is not in the same physical location as individuals using illicit
10 substances even if respondent is not using the drugs. Any possession or use of alcohol, controlled
11 substances, or their associated paraphernalia not supported by documentation timely provided, or
12 any proximity to persons using illicit substances, shall be considered a violation of probation.

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

14 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
16 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
17 history with the use of alcohol and who will coordinate and monitor any prescriptions for
18 respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved
19 practitioner shall be provided with a copy of the board's Statement of Issues and decision. A
20 record of this notification must be provided to the board upon request.

21 Respondent shall sign a release authorizing the practitioner to communicate with the board
22 about respondent's treatment(s). The coordinating physician, nurse practitioner, physician
23 assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation
24 regarding respondent's compliance with this condition. If any substance considered addictive has
25 been prescribed, the report shall identify a program for its time limited use.

26 The board may require that the single coordinating physician, nurse practitioner, physician
27 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
28 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,

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

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

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

20 Failure to comply with any such suspension shall be considered a violation of probation.

21 **18. No Ownership of Licensed Premises**

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

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

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

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

14 **20. Violation of Probation**

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

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

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Exhibit A
Statement of Issues No. 6044

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STATE OF CALIFORNIA

12 In the Matter of the Statement of Issues
13 Against:
14 **ADARSH KONDA**
15 **Applicant for Intern Pharmacist License**
16 **Respondent.**

Case No. 6044

STATEMENT OF ISSUES

17
18 Complainant alleges:

19 PARTIES

- 20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about September 14, 2016, the Board of Pharmacy, Department of Consumer
23 Affairs received an application for an Application for Registration as an Intern Pharmacist from
24 Adarsh Konda (Respondent). On or about August 16, 2016, Adarsh Konda certified under
25 penalty of perjury to the truthfulness of all statements, answers, and representations in the
26 Application. The Board denied the application on or about January 6, 2017.

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JURISDICTION

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

STATUTORY AND REGULATORY PROVISIONS

4. Section 4300, subdivision (c), of the Code states in pertinent part:

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

5. Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is defined to include, but not be limited to, any of the following:

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

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

6. Section 480 of the Code states, in pertinent part:

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

“(1) Been convicted of a crime. . . . Any action which a board is permitted to take following the establishment of a conviction may be taken . . . irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

“(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

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

3 “The board may deny a license pursuant to this subdivision only if the crime or act is
4 substantially related to the qualifications, functions, or duties of the . . . [license].”

5 7. California Code of Regulations, title 16, section 1770, states:

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

12 CAUSE FOR DENIAL OF APPLICATION

13 (Conviction of Substantially Related Crimes(s))

14 8. Respondent's application is subject to denial under section(s) of the Code: 480(a)(1);
15 480(a)(3) by reference to 4301(1); and/or 4300(c) by reference to 4301(1) and California Code of
16 Regulations, title 16, section 1770, for conviction of a substantially related crime, in that on or
17 about November 6, 2013, in the criminal case *People of the State of California v. Adarsh Konda*,
18 Case No. 1430527 in Santa Barbara County Superior Court, Respondent was convicted by plea of
19 nolo contendere of violating Vehicle Code section 23103.5 - Wet and Reckless, a misdemeanor.
20 The conviction was entered as follows:

21 9. On or about February 19, 2013, a car driven by Respondent was involved in a minor
22 traffic collision at an intersection of the campus of the University of California Santa Barbara.
23 Witnesses identified Respondent as the driver involved in the accident and reported that prior to
24 the accident he was observed driving erratically and crossing over into the on-coming lane.
25 Respondent rear ended a vehicle stopped at a red light. The responding officer from the
26 University of California Police Department observed that Respondent had difficulty determining
27 what documents to give to the officer and seemed confused. The officer noticed Respondent's
28 speech was slow and slurred, he swayed while standing, and his eyes were red and watery. The

1 officer did not detect any odor of alcohol emitting from Respondent's breath or person. The
2 Officer conducted a Horizontal Gaze Nystagmus test and noted that Respondent had difficulty
3 following directions to follow the pen with his eyes. Respondent's pupils were constricted and
4 non reactive to the light. Respondent's tongue was yellow with a brown spot. Respondent
5 admitted to smoking marijuana the day before and having taken Benadryl that morning.
6 Respondent was unable to satisfactorily perform the field sobriety tests. His movements were
7 slow, and he would stare off, and seemed dazed and confused. Based on the officer's
8 observations, statements from witnesses, and Respondent's symptoms of possible intoxication, he
9 placed Respondent under arrest for driving under the influence. Respondent consented to a
10 chemical breath test which indicated no presence of alcohol in his system. He was then
11 transported to the Goleta Valley Cottage Hospital where he submitted to a chemical blood test.
12 While at the hospital and in the patrol vehicle, Respondent fell asleep several times. He was later
13 booked at the Santa Barbara County Jail on charges of violating misdemeanor Vehicle Code
14 section 23152(a) – Driving Under the Influence of Drugs/Alcohol. The toxicology screening
15 results from Respondent's blood sample indicated a presence of benzodiazepines, cocaine and
16 marijuana in his system at the time of his arrest. The Santa Barbara County DA's office filed a
17 misdemeanor complaint charging Respondent with the following violations: 1) Misdemeanor
18 Vehicle Code section 23152(a) - Driving Under the Influence of a Drug; and 2) Misdemeanor
19 Health and Safety Code section 11550(a) – Under the Influence of a Controlled Substance
20 (Cocaine). The complaint was later amended to add Count 3, misdemeanor Vehicle Code section
21 23103.5 – Wet and Reckless Driving. Respondent pled guilty to and was convicted of violating
22 Count 3. The Court dismissed counts 1 and 2. Respondent was granted formal probation for a
23 period of three years with terms and conditions, not limited to: Serve 1 day in Santa Barbara
24 county jail; Pay fines/restitution; complete a 12 hour drug counseling program, and submit to
25 testing if requested. Respondent paid his restitution in full and completed a 12-hour drug and
26 alcohol counseling program. Respondent's probation was modified from formal probation to
27 summary (unsupervised) probation.

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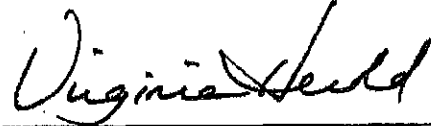
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PRAYER

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

1. Denying the application of Adarsh Konda for an Intern Pharmacist registration;
2. Taking such other and further action as deemed necessary and proper.

DATED: 6/30/17



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

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