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

11 In the Matter of the Petition to Revoke  
Probation Against:

Case No. 3537

12 **MICHELLE ANNE DASH**  
13 19360 Rinaldi Street, #329  
Porter Ranch, CA 91326

**PETITION TO REVOKE PROBATION**

14 Original Pharmacist License No. RPH 42182

15 Respondent.  
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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about September 7, 1988, the Board of Pharmacy (Board) issued Original  
23 Pharmacist License Number RPH 42182 (the license) to Michelle Anne Dash (Respondent). The  
24 license was in effect at all times relevant to the charges brought herein and will expire on  
25 March 31, 2010, unless renewed.

26 3. In a disciplinary action entitled "In the Matter of Accusation against Michelle Anne  
27 Lacko-Helm [Respondent's former name]," Case No. 2558, the Board issued a decision, effective  
28 August 27, 2004, in which Respondent's license was revoked. However, the revocation was

1 stayed and Respondent's license was placed on probation for a period of five (5) years, with  
2 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated  
3 by reference.

4 **JURISDICTION**

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

8 **STATUTORY PROVISIONS**

9 5. Section 118, subdivision (b), provides that the suspension or expiration of a license  
10 shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period  
11 within which the license may be renewed, restored, reissued or reinstated.

12 6. Section 4300, subdivision (a), states: "Every license issued may be suspended or  
13 revoked."

14 **REGULATORY PROVISIONS**

15 7. California Code of Regulations, title 16, section 1773, states:

16 "(a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who  
17 is serving a period of probation shall comply with the following conditions:

18 (1) Obey all laws and regulations substantially related to the practice of  
19 Pharmacy;

20 (2) Report to the Board or its designee quarterly either in person or in writing  
21 as directed; the report shall include the name and address of the probationer's employer. If the  
22 final probation report is not made as directed, the period of probation shall be extended until such  
23 time as the final report is made;

24 (3) Submit to peer review if deemed necessary by the Board;

25 (4) Provide evidence of efforts to maintain skill and knowledge as a  
26 pharmacist as directed by the Board;

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1 (5) Inform all present and prospective employers of license restrictions and  
2 terms of probation. Probationers employed by placement agencies must inform all permittees in  
3 whose premises they work of license restrictions and terms of probation.

4 (6) Not supervise any registered interns nor perform any of the duties of a  
5 preceptor;

6 (7) The period of probation shall not run during such time that the probationer  
7 is engaged in the practice of pharmacy in a jurisdiction other than California.

8 “(b) If ordered by the Board in an administrative action or agreed upon in the stipulated  
9 settlement of an administrative action, any registered pharmacist who is serving a period of  
10 probation shall comply with any or all of the following conditions:

11 (1) Take and pass all or any sections of the pharmacist licensure examination  
12 and/or attend continuing education courses in excess of the required number in specific areas of  
13 practice if directed by the Board;

14 (2) Provide evidence of medical or psychiatric care if the need for such care is  
15 indicated by the circumstances leading to the violation and is directed by the Board;

16 (3) Allow the Board to obtain samples of blood or urine (at the pharmacist's  
17 option) for analysis at the pharmacist's expense, if the need for such a procedure is indicated by  
18 the circumstances leading to the violation and is directed by the Board;

19 (4) If and as directed by the Board, practice only under the supervision of a  
20 pharmacist not on probation to the Board. The supervision directed may be continuous  
21 supervision, substantial supervision, partial supervision, or supervision by daily review as deemed  
22 necessary by the Board for supervision, partial supervision, or supervision by daily review as  
23 deemed necessary by the Board for the protection of the public health and safety.

24 (5) Complete an ethics course that meets the requirements of section 1773.5.

25 “(c) When the circumstances of the case so require, the Board may impose conditions of  
26 probation in addition to those enumerated herein by the terms of its decision in an administrative  
27 case or by stipulation of the parties.”

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1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Failure to Successfully Complete the Pharmacists' Recovery Program)**

3 8. At all times after the effective date of Respondent's probation, Probation  
4 Condition No. 16 stated:

5 "Within 30 days of the effective date of this decision, Respondent shall contact the  
6 Pharmacists Recovery Program for evaluation and shall successfully participate in and complete  
7 the treatment contract and any subsequent addendums as recommended and provided by the PRP  
8 and as approved by the Board. The costs for PRP participation shall be borne by the Respondent.

9 "If Respondent is currently enrolled in the PRP, said participation is now mandatory and is  
10 no longer considered a self-referral under Business and Professions Code section 4363, as of the  
11 effective date of this decision. Respondent shall successfully participate in and complete her  
12 current contract and any subsequent addendums with the PRP. Probation shall be automatically  
13 extended until Respondent successfully completes her treatment contract. Any person terminated  
14 from the program shall be automatically suspended upon notice by the Board. Respondent may  
15 not resume the practice of pharmacy until notified by the Board in writing. The Board shall retain  
16 jurisdiction to institute action to terminate probation for any violation of this term."

17 9. Respondent's probation is subject to revocation because she failed to comply  
18 with Probation Condition No. 16, referenced above, by failing to honor treatment contract  
19 obligations as a participant in the Pharmacists' Recovery Program. Although Respondent's five-  
20 year probationary period was set to continue until on or about August 27, 2009, on or about June  
21 27, 2008, the Board granted Respondent "transition status," a one-year period leading to  
22 successful completion status, contingent upon a negative result for the hair follicle testing that is  
23 conducted at the end of transition time. Respondent requested extensions of time for the required  
24 follicle testing on or about the following dates: (1) June 28, 2008; (2) December 31, 2008;  
25 (3) March 30, 2009; and (4) June 24, 2009. The Board granted each of these requests. When  
26 Respondent was finally scheduled for hair follicle testing on or about August 28, 2009, she failed  
27 to appear. Respondent never submitted to the contractually-required hair follicle analysis.

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1           10. Respondent further failed to comply with Probation Condition No. 16 in that on or  
2 about October 1, 2009, in direct violation of her treatment contract, Respondent discontinued her  
3 daily calling for the random body fluid testing that was required by the Pharmacists' Recovery  
4 Program.

5                                   **SECOND CAUSE TO REVOKE PROBATION**

6                                   **(Failure to Attend a Board-Scheduled Interview)**

7           11. At all times after the effective date of Respondent's probation, Probation Condition  
8 No. 3 stated:

9                   "Upon receipt of reasonable notice, Respondent shall appear in person for interviews with  
10 the Board upon request at various intervals at a location to be determined by the Board. Failure  
11 to appear for a scheduled interview without prior notification to Board staff shall be considered a  
12 violation of probation."

13           12. Respondent's probation is subject to revocation because she failed to comply with  
14 Probation Condition No. 3, referenced above, in that she failed to attend a Board-scheduled  
15 interview. On or about September 24, 2009, the Board requested that Respondent attend a  
16 probation office conference on October 7, 2009. Respondent failed to appear.

17                                   **THIRD CAUSE TO REVOKE PROBATION**

18                                   **(Failure to Cooperate with Board Staff)**

19           13. At all times after the effective date of Respondent's probation, Probation Condition  
20 No. 4 stated:

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

24           14. Respondent's probation is subject to revocation because she failed to comply with  
25 Probation Condition No. 4, referenced above, in that she failed to cooperate with the Board at  
26 numerous times and in numerous ways. Complainant refers to and incorporates all the allegations  
27 contained in paragraphs 8 through 12, including subparagraphs, as though set forth fully.  
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1 PRAYER

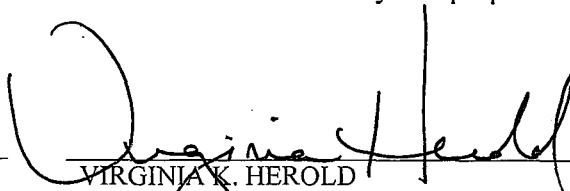
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board issue a decision:

4 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 2558  
5 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No.  
6 RPH 42182 issued to Michelle Anne Dash;

7 2. Revoking or suspending Pharmacist License No. RPH 42182, issued to Michelle  
8 Anne Dash; and

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

10  
11 DATED: 2/10/10

  
12 VIRGINIA K. HEROLD  
13 Executive Officer  
14 Board of Pharmacy  
15 State of California  
16 Complainant

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