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

11 In the Matter of the Petition to Revoke  
12 Probation Against,

13 **ANDREW ALBERT ASARO**  
14 **10108 Calle Marinero, #36**  
**Spring Valley, CA 91977**

15 **Pharmacy Technician Registration**  
16 **No. TCH 56928**

17 Respondent.

Case No. 3800

OAH No. L2006070473

PETITION TO REVOKE PROBATION

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19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about June 21, 2004, the Board of Pharmacy issued Pharmacy Technician  
25 Registration Number TCH 56928 to Andrew Albert Asaro (Respondent). The Pharmacy  
26 Technician Registration expired on February 29, 2008, and was not renewed. The Board  
27 suspended said registration on May 2, 2007.

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1 9. Respondent's probation is subject to revocation because he failed to comply with  
2 Probation Condition C, referenced above, in that Respondent has not provided any quarterly  
3 reports to the Board since the start of probation.

4 **THIRD CAUSE TO REVOKE PROBATION**

5 **(Failure to Appear for Interviews With the Board Upon Request)**

6 10. At all times after the effective date of Respondent's probation, Condition D stated:

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

10 11. Respondent's probation is subject to revocation because he failed to comply with  
11 Probation Condition D, referenced above, in that Respondent did not appear as requested for  
12 probation office conferences scheduled for May 10, 2007, and July 5, 2007, nor did he provide  
13 prior notification to the Board that he would not be able to attend the meetings.

14 **FOURTH CAUSE TO REVOKE PROBATION**

15 **(Failure to Submit Cost Recovery Payments)**

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

17 Respondent shall pay to the Board its costs of investigation and prosecution in  
18 the amount of \$2,548.50. Respondent shall make said payments at the rate of \$75.00  
per month, unless modified by the Board.

19 If Respondent fails to pay the Board's costs on the dates determined by the  
20 Board, after affording him notice and the opportunity to be heard, the Board shall  
21 revoke probation and carry out the disciplinary order that was stayed. The filing of  
bankruptcy by Respondent shall not relieve him of the responsibility to reimburse the  
Board its costs of investigation and prosecution.

22 13. Respondent's probation is subject to revocation because he failed to comply with  
23 Probation Condition G, referenced above, in that Respondent failed to make any cost recovery  
24 payments to the Board.

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1 **FIFTH CAUSE TO REVOKE PROBATION**

2 **(Failure to Maintain an Active Pharmacy Technician License)**

3 14. At all times after the effective date of Respondent's probation, Condition I stated:

4 At all times, while on probation, Respondent shall maintain an active current  
5 technician registration/certification with the board, including any period during which  
6 suspension or probation is tolled.

7 If Respondent's pharmacy technician registration/certification expires or is  
8 cancelled by operation of law or otherwise, upon renewal or reapplication,  
9 Respondent's license shall be subject to all terms and conditions of this probation not  
10 previously satisfied.

11 15. Respondent's probation is subject to revocation because he failed to comply with  
12 Probation Condition I, referenced above, in that Respondent did not renew his pharmacy  
13 technician registration as required and allowed it to expire on February 29, 2008.

14 **SIXTH CAUSE TO REVOKE PROBATION**

15 **(Failure to Notify the Board of a Change in Mailing Address)**

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

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

22 17. Respondent's probation is subject to revocation because he failed to comply with  
23 Probation Condition J, referenced above, in that the Board sent correspondence to Respondent via  
24 certified U.S. Mail to his address of record. The correspondence was returned to the Board  
25 marked "Attempted - Not Known, Unable to Forward," and "Undeliverable as Addressed,  
26 Unable to Forward."

27 **SEVENTH CAUSE TO REVOKE PROBATION**

28 **(Failure to Maintain 80 Hours Monthly Employment as a Pharmacy Technician)**

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

It is a violation of probation for Respondent to work less than 80 hours per  
month as a pharmacy technician. Regardless of residency, for any reason, should he  
cease practicing as a pharmacy technician in California, Respondent must notify the  
Board in writing within 10 days of cessation of practice or the resumption of the  
practice. Such periods of time shall not apply to the reduction of the probation

1 period. It is a violation of probation for Respondent's probation to remain tolled  
2 pursuant to the provisions of this condition for a period exceeding three consecutive  
years.

3 "Cessation of practice" means any period of time exceeding 30 days in which  
4 Respondent is not engaged in the practice as a pharmacy technician as defined in  
Business and Professions Code section 4028.

5 19. Respondent's probation is subject to revocation because he failed to comply with  
6 Probation Condition K, referenced above, in that Respondent was not legally employed as a  
7 pharmacy technician at any time during the probation period.

8 **EIGHTH CAUSE TO REVOKE PROBATION**

9 **(Failure to Submit Proof of Attendance in a Substance Abuse Program)**

10 20. At all times after the effective date of Respondent's probation, Condition M stated:

11 Within 30 days of the effective date of this Decision, Respondent shall attend  
12 regularly a board-approved recognized and established substance abuse recovery  
support group in California (e.g. Alcoholic Anonymous, Cocaine Anonymous, etc.).  
13 He must attend at least one group meeting per week. He shall continue regular  
attendance and submit signed and dated documentation confirming attendance with  
14 each quarterly report for the duration of probation, unless modified by the Board.

15 21. Respondent's probation is subject to revocation because he failed to comply with  
16 Probation Condition M, referenced above, in that Respondent failed to submit any documentation  
17 or proof of attendance in any substance abuse recovery support group.

18 **NINTH CAUSE TO REVOKE PROBATION**

19 **(Failure to Submit to Random Drug Testing)**

20 22. At all times after the effective date of Respondent's probation, Condition N stated:

21 At his own expense, Respondent shall participate in random drug testing,  
22 including but not limited to, biological fluid testing (urine, blood), breathalyzer, hair  
follicle testing, or a drug screening program approved by the Board. The length of  
23 time shall be for the entire probation period, and the frequency of testing will be  
determined by the Board. At all times, Respondent shall cooperate with the Board,  
24 and, when directed, shall submit to such tests and samples for the detection of  
alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure  
25 to submit to testing as directed shall constitute a violation of probation. Any  
confirmed positive drug test shall result in the immediate suspension of practice by  
26 Respondent. He may not resume the practice of pharmacy until notified by the Board  
in writing.

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**Exhibit A**

**Decision and Order**

**Board of Pharmacy Case No. 2908**

**Office of Administrative Hearings Case No. L2006070473**