

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

In the Matter of the Accusation Against:

Case No. 3543

ASEFEH NIKTALEAN
3030 Frontier Avenue
Thousand Oaks, CA 91360

Pharmacy Technician Registration No. TCH
74975

Respondent.

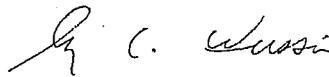
DECISION AND ORDER

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 August 19, 2011.

It is so ORDERED July 20, 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
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4 State Bar No. 246134
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

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11 **ASEFEH NIKTALEAN**
12 **3030 Frontier Avenue**
13 **Thousand Oaks, CA 91360**
14 **Pharmacy Technician Registration No. TCH**
74975

OAH No. L-2010120200
STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 Respondent.

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 **PARTIES**

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

25 2. Asefeh Niktalean ("Respondent") is represented in this proceeding by attorney
26 Nazanin Houshyar, whose address is: 2502 Artesia Boulevard, suite 202, Redondo Beach, CA
27 90278.
28

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 74975 issued
3 to Respondent Asefeh Niktalean is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for three (3) years on the following terms and conditions.

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

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

12 During suspension, respondent shall not enter any pharmacy area or any portion of any
13 other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other
14 distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and
15 devices or controlled substances are maintained. Respondent shall not do any act involving drug
16 selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent
17 manage, administer, or assist any licensee of the board. 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 Subject to the above restrictions, respondent may continue to own or hold an interest in any
21 licensed premises by the board in which she holds an interest at the time this decision becomes
22 effective unless otherwise specified in this order.

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

24 **2. Obey All Laws**

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

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

- 28 an arrest or issuance of a criminal complaint for violation of any provision of the

1 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
2 substances laws

- 3 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
4 criminal complaint, information or indictment
- 5 a conviction of any crime
- 6 discipline, citation, or other administrative action filed by any state or federal agency
7 which involves respondent's pharmacy technician registration no. or which is related
8 to the practice of pharmacy or the manufacturing, obtaining, handling, distributing,
9 billing, or charging for any drug, device or controlled substance.

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

11 **3. Report to the Board**

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

20 **4. Interview with the Board**

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

26 **5. Cooperate with Board Staff**

27 Respondent shall cooperate with the board's inspection program and with the board's
28 monitoring and investigation of respondent's compliance with the terms and conditions of her

1 probation. Failure to cooperate shall be considered a violation of probation.

2 **6. Notice to Employers**

3 During the period of probation, respondent shall notify all present and prospective
4 employers of the decision in case number 3543 and the terms, conditions and restrictions imposed
5 on respondent by the decision, as follows:

6 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
7 respondent undertaking any new employment, respondent shall cause her direct supervisor,
8 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
9 tenure of employment) and owner to report to the board in writing acknowledging that the listed
10 individual(s) has/have read the decision in case number 3543 and the terms and conditions
11 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
12 supervisor(s) submit timely acknowledgement(s) to the board.

13 If respondent works for or is employed by or through a pharmacy employment service,
14 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
15 of the terms and conditions of the decision in case number 3543 in advance of the respondent
16 commencing work at each pharmacy. A record of this notification must be provided to the board
17 upon request.

18 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
19 (15) days of respondent undertaking any new employment by or through a pharmacy employment
20 service, respondent shall cause her direct supervisor with the pharmacy employment service to
21 report to the board in writing acknowledging that she has read the decision in case number 3543
22 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
23 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

27 "Employment" within the meaning of this provision shall include any full-time,
28 part-time, temporary or relief service or pharmacy management service as a pharmacy

1 technician or in any position for which a pharmacy technician license is a requirement
2 or criterion for employment, whether the respondent is considered an employee,
3 independent contractor or volunteer.

4 **7. Reimbursement of Board Costs**

5 As a condition precedent to successful completion of probation, respondent shall pay to the
6 board its costs of investigation and prosecution in the amount \$3,651.00. Respondent shall make
7 thirty (30) consecutive payments in the amount of \$121.70, with the total amount of \$3,651.00 to
8 be paid in full six (6) months prior to the completion of probation. There shall be no deviation
9 from this schedule absent prior written approval by the board or its designee. Failure to pay costs
10 by the as directed above shall be considered a violation of probation.

11 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
12 reimburse the board its costs of investigation and prosecution.

13 **8. Probation Monitoring Costs**

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

18 **9. Status of License**

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

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

26 **10. License Surrender While on Probation/Suspension**

27 Following the effective date of this decision, should respondent cease work due to
28 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,

1 respondent may tender her pharmacy technician license to the board for surrender. The board or
2 its designee shall have the discretion whether to grant the request for surrender or take any other
3 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
4 license, respondent will no longer be subject to the terms and conditions of probation. This
5 surrender constitutes a record of discipline and shall become a part of the respondent's license
6 history with the board.

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

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

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

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

22 **12. Tolling of Probation**

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

1 Should respondent, regardless of residency, for any reason (including vacation) cease
2 working as a pharmacy technician for a minimum of 15 hours per calendar month in California,
3 respondent must notify the board in writing within ten (10) days of cessation of work and must
4 further notify the board in writing within ten (10) days of the resumption of the work. Any
5 failure to provide such notification(s) shall be considered a violation of probation.

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

9 "Cessation of work" means calendar month during which respondent is not
10 working for at least 15 hours as a pharmacy technician, as defined in Business and
11 Professions Code section 4115. "Resumption of work" means any calendar month
12 during which respondent is working as a pharmacy technician for at least 15 hours as
13 a pharmacy technician as defined by Business and Professions Code section 4115.

14 **13. 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.

27 **14. Completion of Probation**

28 Upon written notice by the board indicating successful completion of probation,

1 respondent's pharmacy technician license will be fully restored.

2 **15. No Ownership of Licensed Premises**

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

10 **16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

11 In the event that Respondent tests positive as having consumed alcohol or a controlled
12 substance not prescribed to her, Respondent shall begin regular attendance at a recognized and
13 established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous,
14 Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent
15 must attend at least one group meeting per week unless otherwise directed by the board or its
16 designee. Respondent shall continue regular attendance and submit signed and dated
17 documentation confirming attendance with each quarterly report for the duration of probation.
18 Failure to attend or submit documentation thereof shall be considered a violation of probation.

19 **17. Random Drug Screening**

20 Respondent, at her own expense, shall participate in random testing, including but not
21 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
22 screening program as directed by the board or its designee. Respondent may be required to
23 participate in testing for the entire probation period and the frequency of testing will be
24 determined by the board or its designee. At all times respondent shall fully cooperate with the
25 board or its designee, and shall, when directed, submit to such tests and samples for the detection
26 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
27 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
28

1 of probation. Upon request of the board or its designee, respondent shall provide documentation
2 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
3 a necessary part of the treatment of the respondent. Failure to timely provide such documentation
4 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
5 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
6 shall be considered a violation of probation and shall result in the automatic suspension of work
7 by respondent. Respondent may not resume work as a pharmacy technician until notified by the
8 board in writing.

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

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

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

22 **18. Work Site Monitor**

23 Within ten (10) days of the effective date of this decision, respondent shall identify a work
24 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
25 during working hours. Respondent shall be responsible for ensuring that the work site monitor
26 reports in writing to the board quarterly. Should the designated work site monitor determine at
27 any time during the probationary period that respondent has not maintained sobriety, she shall
28 notify the board immediately, either orally or in writing as directed. Should respondent change

1 employment, a new work site monitor must be designated, for prior approval by the board, within
2 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
3 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
4 considered a violation of probation.

5 **19. Notification of Departure**

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

10 **20. Abstain from Drugs and Alcohol Use**

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

22 **21. Prescription Coordination and Monitoring of Prescription Use**

23 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
24 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
25 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the
26 Respondent's history [with the use of alcohol, controlled substances, and/or dangerous drugs,
27 and/or of mental illness, and/or of gambling addiction] and who will coordinate and monitor any
28 prescriptions for Respondent for dangerous drugs, controlled substances or mood-altering drugs.

1 The approved practitioner shall be provided with a copy of the Board's Accusation and Decision.
2 A record of this notification must be provided to the board upon request. Respondent shall sign a
3 release authorizing the practitioner to communicate with the board about Respondent's
4 treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist
5 shall report to the board on a quarterly basis for the duration of probation regarding Respondent's
6 compliance with this condition. If any substances considered addictive have been prescribed, the
7 report shall identify a program for the time limited use of any such substances. The board may
8 require that the single coordinating physician, nurse practitioner, physician assistant or
9 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine.
10 Should respondent, for any reason, cease supervision by the approved practitioner, Respondent
11 shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the
12 name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of
13 respondent's choice to the board or its designee for its prior approval. Failure to timely submit
14 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
15 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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

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

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

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

9 **ACCEPTANCE**

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Nazanin Houshyar. I understand the stipulation and the effect it
12 will have on my Pharmacy Technician Registration. I enter into this Stipulated Settlement and
13 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
14 Decision and Order of the Board of Pharmacy.

15
16 DATED: 5-20-11 Asefeh Niktalean
17 ASEFEH NIKTALEAN
Respondent

18 I have read and fully discussed with Respondent Asefeh Niktalean the terms and conditions
19 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
20 its form and content.

21 DATED: _____
22 Nazanin Houshyar
Attorney for Respondent

23 **ENDORSEMENT**

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

26
27
28

Dated: May 23, 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. 3543

1 EDMUND G. BROWN JR.
2 Attorney General of California
3 KAREN B. CHAPPELLE
4 Supervising Deputy Attorney General
5 State Bar No. 141267
6 300 So. Spring Street, Suite 1702
7 Los Angeles, CA 90013
8 Telephone: (213) 897-8944
9 Facsimile: (213) 897-2804

10 *Attorneys for Complainant*

11 **BEFORE THE**
12 **BOARD OF PHARMACY**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation Against:

Case No: 3543

16 **ASEFEH NIKTALEAN**
17 **3030 Frontier Avenue**
18 **Thousand Oaks, CA 91360**

A C C U S A T I O N

19 **Pharmacy Technician Registration No.**
20 **74975**

Respondent.

21 Complainant alleges:

22 **PARTIES**

23 1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

25 2. On or about June 11, 2007, the Board of Pharmacy ("Board") issued Pharmacy
26 Technician Registration No. TCH 74975 to Asefeh Niktalean ("Respondent"). The Pharmacy
27 Technician Registration was in full force and effect at all times relevant to the charges brought
28 herein and will expire on September 30, 2010, unless renewed.

JURISDICTION

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

1
2 "Except as otherwise provided in this division, every person who possesses (1) any
3 controlled substance specified in subdivision (b) or (c), or paragraph (1) of
4 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
5 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
6 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
7 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
8 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed
9 to practice in this state, shall be punished by imprisonment in the state prison."

10
11 **COST RECOVERY**

12 10. Section 125.3 of the Code states, in pertinent part, that the Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 **CONTROLLED SUBSTANCE-DANGEROUS DRUGS**

17 11. "Psilocybin (mushrooms)" is designated as a Schedule I controlled substance by
18 Health and Safety Code section 11054(d)(18) and is a dangerous drug pursuant to Business and
19 Professions Code section 4022.

20 12. Hydrocodone is designated as a Schedule II controlled substance by Health and
21 Safety Code section 11055(b)(j) and is a dangerous drug pursuant to Business and Professions
22 Code section 4022. "Norco" is a hydrocodone bitartrate and acetaminophen tablet.

23 13. Zolpidem is designated as a Schedule IV non-narcotic controlled substance by Health
24 and Safety Code section 11057 (d)(32). "Ambien" is a brand name of zolpidem.

25 14. Alprazolam is designated as a Schedule IV non-narcotic controlled substance by
26 Health and Safety Code section 11057(d)(1). "Xanax" is a brand name of allprazolam.

27 15. Marijuana is designated as a Schedule I controlled substance by Health and Safety
28 Code section 11054(d)(13) and is a dangerous drug pursuant to Business and Professions Code
section 4022.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Possession of Norco)**

3 16. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
4 Code for unprofessional conduct in that Respondent possessed Norco, a controlled substance, in
5 violation of Health and Safety Code section 11350 as follows:

6 17. On or about December 13, 2008, an Officer with the California Highway Patrol
7 initiated a traffic enforcement stop on a silver BMW because the vehicle was traveling at a high
8 rate of speed. Respondent was a passenger in the vehicle at the time of the stop.

9 18. As the driver of the BMW provided the Officer with paperwork, the Officer
10 immediately was able to smell an odor of marijuana coming from inside the vehicle.

11 19. One by one, the occupants of the vehicle were asked if they had any marijuana in
12 their possession. Each occupant, including the Respondent, denied possessing any marijuana.

13 20. The Officer than conducted a search of the vehicle. Inside of the vehicle, the Officer
14 located a brown purse. Respondent claimed ownership of the brown purse. Inside of
15 Respondent's purse, the Officer located four Xanax pills, seven Ambien pills, a pill bottle
16 containing 14 grams of psilocybin mushrooms, three Norco pills and a digital pocket scale.

17 21. Respondent was arrested and transported to the Inyo County Jail. During the booking
18 process, Respondent removed from her bra area, a medication bottle containing 21 grams of
19 marijuana.

20 22. Respondent did not have a prescription for any of the controlled substances found in
21 her possession.

22 **SECOND CAUSE FOR DISCIPLINE**

23 **(Possession of Xanax)**

24 23. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
25 Code for unprofessional conduct in that Respondent possessed Xanax, a controlled substance, in
26 violation of Business and Professions Code section 4060 and Health and Safety Code section
27 11377 (a). Complainant refers to, and by this reference incorporates, the allegations set forth in
28 paragraphs 17 though 22, inclusive, above, as though set forth fully.

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THIRD CAUSE FOR DISCIPLINE

(Possession of Ambien)

24. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code for unprofessional conduct in that Respondent possessed Ambien, a controlled substance, in violation of Business and Professions Code section 4060 and Health and Safety Code section 11377 (a). Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 17 through 22, inclusive, above, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Possession of Psilocybin Mushroom)

25. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code for unprofessional conduct in that Respondent possessed Psilocybin Mushrooms, a controlled substance, in violation of Health and Safety Code section 11377, subdivision (a). Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 17 through 22, inclusive, above, as though set forth fully.

FIFTH CAUSE FOR DISCIPLINE

(Possession of Marijuana)

26. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the Code for unprofessional conduct in that Respondent possessed marijuana, a controlled substance, in violation of Health and Safety Code section 11357, subdivision (b). Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 17 through 22, inclusive, above, as though set forth fully.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to disciplinary action under section 4301 of the Code for unprofessional conduct. Complainant refers to, and by this reference incorporates, the allegations set forth in paragraphs 17 through 22, inclusive, above, as though set forth fully.

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1 PRAYER

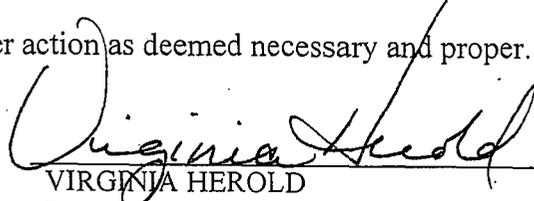
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board issue a decision:

4 1. Revoking or suspending Pharmacy Technician Registration No. TCH 74975, issued
5 to Respondent;

6 2. Ordering Respondent to pay the Board of Pharmacy the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Business and Professions Code section
8 125.3; and

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

10 DATED: 9/28/10



11 VIRGINIA HEROLD
12 Executive Officer
13 Board of Pharmacy
14 Department of Consumer Affairs
15 State of California
16 Complainant

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