

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

In the Matter of the Accusation Against:

Case No. 4202

Shefali Harit Rana
43318 Debrum Common
Fremont, CA 94539

14111 Sliver Glade Lane
Sugarland, TX 77498

Pharmacist License No. RPH 43308

Respondent.

DECISION AND ORDER

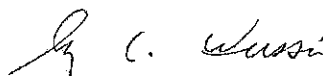
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on August 27, 2012.

It is so ORDERED on July 27, 2012.

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 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4202

11 **SHEFALI HARIT RANA**
12 **43318 Debrum Common**
13 **Fremont, CA 94539**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **14111 Sliver Glade Lane**
15 **Sugarland, TX 77498**
16 **Pharmacist License No. RPH 43308**

Respondent.

17 In the interest of a prompt and speedy resolution of this matter, consistent with the public
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs
19 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
20 submitted to the Board for approval and adoption as the final disposition of the Accusation.

21 PARTIES

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

26 2. Shefali Harit Rana (Respondent) is represented in this proceeding by attorney Stuart
27 Fishman, whose address is:
28

1 Stuart Fishman
2 111 W. Saint John St., STE. 230
3 San Jose, CA 95113.

4 3. On or about March 22, 1990, the Board of Pharmacy issued Pharmacist License No. RPH
5 43308 to Respondent. The Pharmacist License expired on August 31, 2011, and has not been
6 renewed.

7 JURISDICTION

8 4. Accusation No. 4202 was filed before the Board of Pharmacy (Board), Department of
9 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
10 statutorily required documents were properly served on Respondent on April 4, 2012.
11 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
12 No. 4202 is attached as Exhibit A and incorporated by reference.

13 ADVISEMENT AND WAIVERS

14 5. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Accusation No. 4202. Respondent also has carefully read, fully
16 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
17 Order.

18 6. Respondent is fully aware of her legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
20 her own expense; the right to confront and cross-examine the witnesses against her; the right to
21 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
22 compel the attendance of witnesses and the production of documents; the right to reconsideration
23 and court review of an adverse decision; and all other rights accorded by the California
24 Administrative Procedure Act and other applicable laws.

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

27 ///

28 ///

1 CULPABILITY

2 8. Respondent understands that the charges and allegations in Accusation No. 4202, if
3 proven at a hearing, constitute cause for imposing discipline upon her Pharmacist License.

4 9. For the purpose of resolving the Accusation without the expense and uncertainty of
5 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
6 basis for the charges in the Accusation and that those charges constitute cause for discipline.
7 Respondent hereby gives up her right to contest that cause for discipline exists based on those
8 charges.

9 10. Respondent understands that by signing this stipulation she enables the Board to issue
10 an order accepting the surrender of her Pharmacist License without further process.

11 CONTINGENCY

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

21 12. The parties understand and agree that facsimile copies of this Stipulated Surrender of
22 License and Order, including facsimile signatures thereto, shall have the same force and effect as
23 the originals.

24 13. This Stipulated Surrender of License and Order is intended by the parties to be an
25 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
26 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
27 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
28

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
2 executed by an authorized representative of each of the parties.

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Pharmacist License No. RPH 43308, issued to Respondent
7 Shefali Harit Rana, is surrendered and accepted by the Board of Pharmacy.

8 1. The surrender of Respondent's Pharmacist License and the acceptance of the
9 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
10 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
11 license history with the Board of Pharmacy.

12 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
13 effective date of the Board's Decision and Order.

14 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
15 issued, her wall certificate on or before the effective date of the Decision and Order.

16 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
17 California, the Board shall treat it as a new application for licensure. Respondent must comply
18 with all the laws, regulations and procedures for licensure in effect at the time the application or
19 petition is filed, and all of the charges and allegations contained in Accusation No. 4202 shall be
20 deemed to be true, correct and admitted by Respondent when the Board determines whether to
21 grant or deny the application or petition.

22 5. If Respondent should ever apply or reapply for a new license or certification, or
23 petition for reinstatement of a license, by any other health care licensing agency in the State of
24 California, all of the charges and allegations contained in Accusation No. 4202 shall be deemed to
25 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
26 other proceeding seeking to deny or restrict licensure.

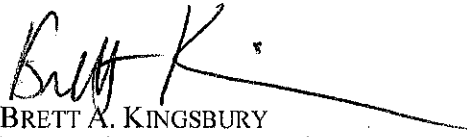
27 6. Respondent may not apply for any license, permit, or registration from the board for
28 three years from the effective date of this decision.

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ENDORSEMENT

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

Dated: June 21, 2012

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

BRETT A. KINGSBURY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 4202

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 BRETT KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Accusation Against:

Case No. 4202

11 **SHEFALI HARIT RANA**
12 **43318 Debrum Common**
13 **Fremont, CA 94539**

A C C U S A T I O N

14 **Pharmacist License No. RPH 43308**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about March 22, 1990, the Board of Pharmacy issued Pharmacist License
21 Number RPH 43308 to Shefali Harit Rana (Respondent). The Pharmacist License expired on
22 August 31, 2011, and has not been renewed.

23 **JURISDICTION**

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

27 4. Section 4011 of the Code provides that the Board shall administer and enforce both
28 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances

1 Act [Health & Safety Code, § 11000 et seq.].

2 5. Section 4300 of the Code provides that every license issued by the Board may be
3 suspended or revoked.

4 **STATUTORY AND REGULATORY PROVISIONS**

5 6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
6 against any holder of a license that is guilty of "unprofessional conduct," defined to include, but
7 not be limited to, any of the following:

8 ...

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

12 ...

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

15 ...

16 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
17 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
18 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
19 substances or of a violation of the statutes of this state regulating controlled substances or
20 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
21 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
22 The board may inquire into the circumstances surrounding the commission of the crime, in order
23 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
24 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
25 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
26 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
27 of this provision. The board may take action when the time for appeal has elapsed, or the
28 judgment of conviction has been affirmed on appeal or when an order granting probation is made

1 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
2 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
3 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
4 indictment.

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

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

13 **CONTROLLED SUBSTANCES**

14 8. Section 4021 of the Code states:

15 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
16 11053) of Division 10 of the Health and Safety Code.

17 9. Section 4022 of the Code states:

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use,
19 except veterinary drugs that are labeled as such, and includes the following:

20 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
21 prescription," "Rx only," or words of similar import.

22 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale
23 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
24 in with the designation of the practitioner licensed to use or order use of the device.

25 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
26 prescription or furnished pursuant to Section 4006.

27 10. Section 4060 of the Code states:

28 No person shall possess any controlled substance, except that furnished to a person upon

1 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
2 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
3 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
4 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
5 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
6 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
7 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
8 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
9 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
10 labeled with the name and address of the supplier or producer.

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

14 11. California Health and Safety Code section **11170** states:

15 No person shall prescribe, administer, or furnish a controlled substance for himself.

16 12. California Health and Safety Code section **11350(a)** states:

17 "(a) Except as otherwise provided in this division, every person who possesses . . . (1) any
18 controlled substance specified in . . . subdivision (b) or (c) of Section 11055 . . . , unless upon the
19 written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this
20 state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
21 Code. . . ."

22 13. **Methylin** is a brand name for methylphenidate, a controlled substance pursuant to
23 California Health and Safety Code section 11055(d)(6) and a dangerous drug pursuant to
24 California Business and Professions Code section 4022.

25 14. **Morphine Sulfate** is a controlled substance pursuant to California Health and Safety
26 Code section 11055(b)(1)(L) and a dangerous drug pursuant to California Business and
27 Professions Code section 4022.

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1 **COST RECOVERY**

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

6 **FIRST CAUSE FOR DISCIPLINE**

7 (Criminal Conviction)

8 16. Respondent is subject to disciplinary action under Code section 4301, subsection (l),
9 in that she has been convicted of a crime substantially related to the qualifications, functions, and
10 duties of a licensee. The circumstances are as follows:

11 17. On or about February 9, 2011, in Santa Clara Superior Court case number B1151686,
12 Respondent was convicted of having violated California Penal Code section 484 (petty theft).
13 The conviction was based on an incident in which Respondent stole a bottle of Methylin tablets
14 from her employer, Pharmerica.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (Act of Dishonesty)

17 18. Respondent is subject to disciplinary action under section 4301, subsection (f), in that
18 she committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption, as follows:

19 19. In December of 2010, in Mountain View, California, Respondent stole a bottle of
20 Methylin tablets from her employer, Pharmerica.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Violation of Statutes Regulating Controlled Substances)

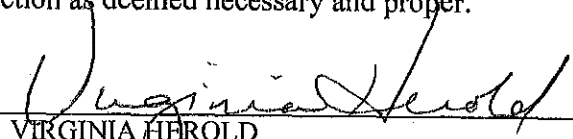
23 20. Respondent is subject to disciplinary action under section 4301, subsection (j), in that
24 she violated statutes of this state regulating controlled substances and dangerous drugs, as
25 follows:

26 21. In December of 2010, in Mountain View, California, Respondent possessed Methylin,
27 a controlled substance, without a prescription for said medication, in violation of California Penal
28 Code section 11170 and California Business and Professions Code section 4060.

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

DATED: 3/24/12



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