

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

In the Matter of the Statement of Issues Against:

Case No. 4833

BREANNE MARIE HATCH

18054 Hickory Tree Lane
Riverside, CA 92504

OAH No. 2013101121

Pharmacy Technician Registration Applicant

Respondent.

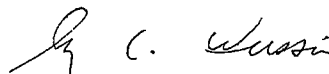
DECISION AND ORDER

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 September 16, 2014.

It is so ORDERED on September 9, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

STAN C. WEISSER
Board President

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

11 In the Matter of the Statement of Issues
12 Against:
13 **BREANNE MARIE HATCH**
18054 Hickory Tree Lane
14 Riverside, CA 92504
15
16 **Pharmacy Technician Registration**
17 Respondent.

Case No. 4833
OAH No. 2013101121
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
22 be submitted to the Board for approval and adoption as the final disposition of the Statement of
23 Issues.

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27 D. Harris, Attorney General of the State of California, by Lauro A. Paredes, Deputy Attorney
28 General.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Respondent Breanne Marie Hatch that Pharmacy
3 Technician Registration will be issued upon completion of all licensing requirements and
4 immediately revoked. The revocation will be stayed and the Respondent placed on five (5) years
5 probation on the following terms and conditions.

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

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

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

21 Subject to the above restrictions, respondent may continue to own or hold an interest in any
22 licensed premises by the board in which she holds an interest at the time this decision becomes
23 effective unless otherwise specified in this order.

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

25 **2. Obey All Laws**

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

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

- 1 an arrest or issuance of a criminal complaint for violation of any provision of the
- 2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 3 substances laws
- 4 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 5 criminal complaint, information or indictment
- 6 a conviction of any crime
- 7 discipline, citation, or other administrative action filed by any state or federal agency
- 8 which involves respondent's pharmacy technician license or which is related to the
- 9 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
- 10 or charging for any drug, device or controlled substance.

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

12 **3. Report to the Board**

13 Respondent shall report to the board quarterly, on a schedule as directed by the board or its

14 designee. The report shall be made either in person or in writing, as directed. Among other

15 requirements, respondent shall state in each report under penalty of perjury whether there has

16 been compliance with all the terms and conditions of probation. Failure to submit timely reports

17 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency

18 in submission of reports as directed may be added to the total period of probation. Moreover, if

19 the final probation report is not made as directed, probation shall be automatically extended until

20 such time as the final report is made and accepted by the board.

21 **4. Interview with the Board**

22 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews

23 with the board or its designee, at such intervals and locations as are determined by the board or its

24 designee. Failure to appear for any scheduled interview without prior notification to board staff,

25 or failure to appear at two (2) or more scheduled interviews with the board or its designee during

26 the period of probation, shall be considered a violation of probation.

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1 **5. Cooperate with Board Staff**

2 Respondent shall cooperate with the board's inspection program and with the board's
3 monitoring and investigation of respondent's compliance with the terms and conditions of her
4 probation. Failure to cooperate shall be considered a violation of probation.

5 **6. Notice to Employers**

6 During the period of probation, respondent shall notify all present and prospective
7 employers of the decision in case number 4833 and the terms, conditions and restrictions imposed
8 on respondent by the decision, as follows:

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 respondent undertaking any new employment, respondent shall cause her direct supervisor,
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
12 tenure of employment) and owner to report to the board in writing acknowledging that the listed
13 individual(s) has/have read the decision in case number 4833 and the terms and conditions
14 imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or
15 supervisor(s) submit timely acknowledgement(s) to the board.

16 If respondent works for or is employed by or through a pharmacy employment service,
17 respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy
18 of the terms and conditions of the decision in case number 4833 in advance of the respondent
19 commencing work at each pharmacy. A record of this notification must be provided to the board
20 upon request.

21 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
22 (15) days of respondent undertaking any new employment by or through a pharmacy employment
23 service, respondent shall cause her direct supervisor with the pharmacy employment service to
24 report to the board in writing acknowledging that she has read the decision in case number 4833
25 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
26 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

4 "Employment" within the meaning of this provision shall include any full-time,
5 part-time, temporary or relief service or pharmacy management service as a pharmacy
6 technician or in any position for which a pharmacy technician license is a requirement
7 or criterion for employment, whether the respondent is considered an employee,
8 independent contractor or volunteer.

9 **7. Probation Monitoring Costs**

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

14 **8. Status of License**

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

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

22 **9. License Surrender While on Probation/Suspension**

23 Following the effective date of this decision, should respondent cease work due to
24 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
25 respondent may tender her pharmacy technician license to the board for surrender. The board or
26 its designee shall have the discretion whether to grant the request for surrender or take any other
27 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
28 license, respondent will no longer be subject to the terms and conditions of probation. This

1 surrender constitutes a record of discipline and shall become a part of the respondent's license
2 history with the board.

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

9 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

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

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

18 **11. Tolling of Probation**

19 Except during periods of suspension, respondent shall, at all times while on probation, be
20 employed as a pharmacy technician in California for a minimum of 40 hours per calendar month.
21 Any month during which this minimum is not met shall toll the period of probation, i.e., the
22 period of probation shall be extended by one month for each month during which this minimum is
23 not met. During any such period of tolling of probation, respondent must nonetheless comply
24 with all terms and conditions of probation.

25 Should respondent, regardless of residency, for any reason (including vacation) cease
26 working as a pharmacy technician for a minimum of 40 hours per calendar month in California,
27 respondent must notify the board in writing within ten (10) days of cessation of work and must
28 further notify the board in writing within ten (10) days of the resumption of the work. Any

1 failure to provide such notification(s) shall be considered a violation of probation.

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

5 "Cessation of work" means calendar month during which respondent is not
6 working for at least 40 hours as a pharmacy technician, as defined in Business and
7 Professions Code section 4115. "Resumption of work" means any calendar month
8 during which respondent is working as a pharmacy technician for at least 40 hours as
9 a pharmacy technician as defined by Business and Professions Code section 4115.

10 **12. Violation of Probation**

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

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

23 **13. Completion of Probation**

24 Upon written notice by the board indicating successful completion of probation,
25 respondent's pharmacy technician license will be fully restored.

26 **14. No Ownership of Licensed Premises**

27 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
28 administrator, member, officer, director, trustee, associate, or partner of any business, firm,

1 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
2 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
3 days following the effective date of this decision and shall immediately thereafter provide written
4 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
5 documentation thereof shall be considered a violation of probation.

6 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
7 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
8 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
9 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
10 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
11 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
12 that interest, but only to the extent of that position or interest as of the effective of this decision.

13 Violation of this restriction shall be considered a violation of probation.

14 **15. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

15 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
16 attendance at a recognized and established substance abuse recovery support group in California,
17 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
18 or its designee. Respondent must attend at least one group meeting per week unless otherwise
19 directed by the board or its designee. Respondent shall continue regular attendance and submit
20 signed and dated documentation confirming attendance with each quarterly report for the duration
21 of probation. Failure to attend or submit documentation thereof shall be considered a violation of
22 probation.

23 **16. Random Drug Screening**

24 Respondent, at her own expense, shall participate in random testing, including but not
25 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
26 screening program as directed by the board or its designee. Respondent may be required to
27 participate in testing for the entire probation period and the frequency of testing will be
28 determined by the board or its designee. At all times respondent shall fully cooperate with the

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

12 During suspension, respondent shall not enter any pharmacy area or any portion of or 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 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
21 Subject to the above restrictions, respondent may continue to own or hold an interest in any
22 licensed premises in which she holds an interest at the time this decision becomes effective unless
23 otherwise specified in this order.

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

25 **17. Work Site Monitor**

26 Within ten (10) days of the effective date of this decision, respondent shall identify a work
27 site monitor, for prior approval by the board, who shall be responsible for supervising respondent
28 during working hours. Respondent shall be responsible for ensuring that the work site monitor

1 reports in writing to the board quarterly. Should the designated work site monitor determine at
2 any time during the probationary period that respondent has not maintained sobriety, she shall
3 notify the board immediately, either orally or in writing as directed. Should respondent change
4 employment, a new work site monitor must be designated, for prior approval by the board, within
5 ten (10) days of commencing new employment. Failure to identify an acceptable initial or
6 replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be
7 considered a violation of probation.

8 **18. Notification of Departure**

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

13 **19. Abstain from Drugs and Alcohol Use**

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

25 **20. Prescription Coordination and Monitoring of Prescription Use**

26 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
27 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
28 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's

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

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

25 During suspension, respondent shall not enter any pharmacy area or any portion of the
26 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
27 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
28 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act

1 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
2 consultation; nor shall respondent manage, administer, or assist any licensee of the board, or have
3 access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled
4 substances. Respondent shall not resume practice until notified by the board.

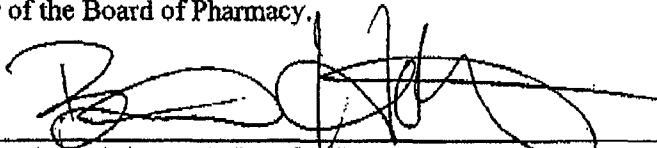
5 Respondent shall not direct, control or perform any aspect of the practice of pharmacy.
6 Subject to the above restrictions, respondent may continue to own or hold an interest in any
7 licensed premises in which she holds an interest at the time this decision becomes effective unless
8 otherwise specified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

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

10 **ACCEPTANCE**

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

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16 DATED: 7-10-14


17 BREANNE MARIE HATCH
Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

Dated: 8/5/14

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Supervising Deputy Attorney General

LAURO A. PAREDES
Deputy Attorney General
Attorneys for Complainant

SD2013705599
70903823.doc

Exhibit A

Statement of Issues No. 4833

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Attorneys for Complainant

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

11 In the Matter of the Statement of Issues
12 Against:

Case No. 4833

13 **BREANNE MARIE HATCH**

STATEMENT OF ISSUES

14 **Pharmacy Technician Registration**
15 **Applicant**

16 Respondent.

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 10, 2012, the Board of Pharmacy, Department of Consumer
23 Affairs received an application for a Pharmacy Technician Registration from Breanne Marie
24 Hatch (Respondent). Respondent is also known as Breanne Marie Martin. On or about
25 September 4, 2012, Breanne Marie Hatch certified under penalty of perjury to the truthfulness of
26 all statements, answers, and representations in the application. The Board denied the application
27 on March 12, 2013.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (c) of the Code provides, in pertinent part, that the Board
6 may refuse a license to any applicant guilty of unprofessional conduct.

7 **STATUTORY PROVISIONS**

8 5. Section 475 of the Code states:

9 (a) Notwithstanding any other provisions of this code, the provisions of this
10 division shall govern the denial of licenses on the grounds of:

11 (1) Knowingly making a false statement of material fact, or knowingly
12 omitting to state a material fact, in an application for a license.

13 (2) Conviction of a crime.

14 (3) Commission of any act involving dishonesty, fraud or deceit with the
15 intent to substantially benefit himself or another, or substantially injure another.

16 (4) Commission of any act which, if done by a licentiate of the business or
17 profession in question, would be grounds for suspension or revocation of license.

18 (b) Notwithstanding any other provisions of this code, the provisions of this
19 division shall govern the suspension and revocation of licenses on grounds specified
20 in paragraphs (1) and (2) of subdivision (a).

21 (c) A license shall not be denied, suspended, or revoked on the grounds of a
22 lack of good moral character or any similar ground relating to an applicant's
23 character, reputation, personality, or habits.

24 6. Section 480 of the Code states:

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

27 (1) Been convicted of a crime. A conviction within the meaning of this
28 section means a plea or verdict of guilty or a conviction following a plea of nolo
contendere. Any action that a board is permitted to take following the establishment
of a conviction may be taken when the time for appeal has elapsed, or the judgment
of conviction has been affirmed on appeal, or when an order granting probation is
made suspending the imposition of sentence, 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 herself or another, or substantially injure another.

///

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

3 (B) The board may deny a license pursuant to this subdivision only if the
4 crime or act is substantially related to the qualifications, functions, or duties of the
5 business or profession for which application is made.

6 (b) Notwithstanding any other provision of this code, no person shall be denied
7 a license solely on the basis that he or she has been convicted of a felony if he or she
8 has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with
9 Section 4852.01) of Title 6 of Part 3 of the Penal Code or that he or she has been
10 convicted of a misdemeanor if he or she has met all applicable requirements of the
11 criteria of rehabilitation developed by the board to evaluate the rehabilitation of a
12 person when considering the denial of a license under subdivision (a) of Section 482.

13 (c) A board may deny a license regulated by this code on the ground that the
14 applicant knowingly made a false statement of fact required to be revealed in the
15 application for the license.

16 7. Section 482 of the Code states:

17 Each board under the provisions of this code shall develop criteria to evaluate
18 the rehabilitation of a person when:

19 (a) Considering the denial of a license by the board under Section 480; or

20 (b) Considering suspension or revocation of a license under Section 490.

21 Each board shall take into account all competent evidence of rehabilitation
22 furnished by the applicant or licensee.

23 8. Section 493 of the Code states:

24 Notwithstanding any other provision of law, in a proceeding conducted by a
25 board within the department pursuant to law to deny an application for a license or to
26 suspend or revoke a license or otherwise take disciplinary action against a person who
27 holds a license, upon the ground that the applicant or the licensee has been convicted
28 of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board
may inquire into the circumstances surrounding the commission of the crime in order
to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority,"
and "registration."

9. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of
unprofessional conduct or whose license has been procured by fraud or
misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
not limited to, any of the following:

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....

(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. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

....

REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769 states:

(a) When considering the denial of a facility or personal license under Section 480 of the Business and Professions Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for licensing or registration, will consider the following criteria:

(1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

(2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial under Section 480 of the Business and Professions Code.

(3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).

(4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.

(5) Evidence, if any, of rehabilitation submitted by the applicant. . .

1 11. California Code of Regulations, title 16, section 1770 states:

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

6 **FIRST CAUSE FOR DENIAL OF APPLICATION**

7 **(August 7, 2012 Criminal Conviction for DUI on April 26, 2012)**

8 12. Respondent's application for licensure is subject to denial under section 480,
9 subdivisions (a)(1) and (a)(3)(A) of the Code in that she was convicted of a crime that is
10 substantially related to the qualifications, duties, and functions of a registered pharmacy
11 technician, and would be a ground for discipline under section 4301, subdivision (1) of the Code
12 for a registered pharmacy technician. The circumstances are as follows:

13 a. On or about August 7, 2012, in a criminal proceeding entitled *People of the*
14 *State of California vs. Breanne Marie Hatch, aka Breanne Marie Martin*, in Riverside County
15 Superior Court, case number RIM1210112, Respondent was convicted on her plea of guilty to
16 violating Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration
17 (BAC) of .08 percent or more, a misdemeanor. Respondent admitted and the court found true the
18 special allegation that Respondent's BAC was .15 percent or more, within the meaning of Vehicle
19 Code section 23578. In Respondent's plea agreement, she admitted her BAC was .20 percent.
20 Pursuant to the plea agreement, the court dismissed an additional count of violating Vehicle Code
21 section 23152, subdivision (a), driving under the influence of alcohol and/or drugs.

22 b. As a result of the conviction, on or about August 7, 2012, the court sentenced
23 Respondent to serve 20 days in the custody of the sheriff, with credit for two days, to be served in
24 the Work Release Program. Respondent was granted probation for 36 months, and ordered to
25 complete an enhanced First Offender Drinking Driver Program (nine months) and a MADD
26 Victim Impact Panel session, pay fees and fines, and comply with DUI probation terms.

27 c. The facts that led to the conviction are that on or about the evening of April 26,
28 2012, an officer with the California Highway Patrol (CHP) observed Respondent driving on a

1 Corona roadway and crossing over the double yellow lines into the oncoming lane of traffic. The
2 CHP officer followed Respondent as she failed to maintain her lane of travel. After conducting
3 an enforcement stop, the CHP officer made contact with Respondent. He observed that
4 Respondent's eyes were red and watery, and there was an odor of an alcoholic beverage emitting
5 from within the vehicle. The officer had Respondent exit her vehicle to conduct his pre-field
6 sobriety test questions. Respondent had a strong odor of an alcoholic beverage on her breath, and
7 her speech was slurred and slow. Respondent was unable to complete the field sobriety tests as
8 explained and demonstrated by the officer, as she was described as uncooperative. Respondent
9 provided a breath sample which was analyzed with a BAC of .173 percent. Respondent was
10 arrested for driving under the influence of alcohol; during booking, she provided a blood sample.

11 **SECOND CAUSE FOR DENIAL OF APPLICATION**

12 **(Dangerous Use of Alcohol)**

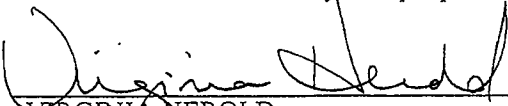
13 13. Respondent's application for licensure is subject to denial under section 480,
14 subdivision (a)(3)(A) of the Code in that on or about April 26, 2012, as described in paragraph
15 12, above, she used alcohol in a manner that was dangerous or injurious to herself and to others,
16 which would be a ground for discipline under section 4301, subdivision (h) of the Code for a
17 registered pharmacy technician.

18 **PRAYER**

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

- 21 1. Denying the application of Breanne Marie Hatch for a Pharmacy Technician
22 Registration;
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: 9/19/13

25 
26 VIRGINIA NEROLD
27 Executive Officer
28 Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SD2013705599