

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

In the Matter of the Accusation Against:

Case No. 4936

SONYA LEE WELLS

1407 Hillside Lane
Roseville, CA 95661

Pharmacist License No. RPH 41039

Respondent.

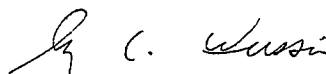
DECISION AND ORDER

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

12 In the Matter of the Accusation Against:

Case No. 4936

13 **SONYA LEE WELLS**
1407 Hillside Lane
Roseville, California 95661

OAH No. 2013120158

15 **Pharmacist License No. RPH 41039**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

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

24 2. Respondent Sonya Lee Wells ("Respondent") is representing herself in this
25 proceeding and has chosen not to exercise her right to be represented by counsel.

26 3. On or about August 17, 1987, the Board of Pharmacy issued Pharmacist License No.
27 RPH 41039 to Sonya Lee Wells (Respondent). The Pharmacist License was in full force and
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1 effect at all times relevant to the charges brought in Accusation No. 4936 and will expire on
2 September 30, 2014, unless renewed.

3 **JURISDICTION**

4 4. Accusation No. 4936 was filed before the Board of Pharmacy (Board) , Department
5 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
6 statutorily required documents were properly served on Respondent on November 15, 2013.

7 Respondent timely filed her Notice of Defense contesting the Accusation.

8 5. A copy of Accusation No. 4936 is attached as exhibit A and incorporated herein by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 6. Respondent has carefully read, and understands the charges and allegations in
12 Accusation No. 4936. Respondent has also carefully read, and understands the effects of this
13 Stipulated Settlement and Disciplinary Order.

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

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 **CULPABILITY**

24 9. Respondent admits the truth of each and every charge and allegation in Accusation
25 No. 4936.

26 10. Respondent agrees that her Pharmacist License is subject to discipline and she agrees
27 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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CONTINGENCY

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2 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
6 that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the
7 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
8 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
9 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
10 not be disqualified from further action by having considered this matter.

11 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
12 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
13 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
18 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
19 writing executed by an authorized representative of each of the parties.

20 14. In consideration of the foregoing admissions and stipulations, the parties agree that
21 the Board may, without further notice or formal proceeding, issue and enter the following
22 Disciplinary Order:

DISCIPLINARY ORDER

24 IT IS HEREBY ORDERED that Pharmacist License No. RPH 41039 issued to Respondent
25 Sonya Lee Wells (Respondent) is revoked. However, the revocation is stayed and Respondent is
26 placed on probation for five (5) years on the following terms and conditions.

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1. Suspension

As part of probation, respondent is suspended from the practice of pharmacy for thirty (30) days beginning the effective date of this agreement, Respondent will receive credit towards this suspension period for any time prior to the effective date of this decision during which her ability to practice is suspended by the PRP as specified in term 17.

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

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

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

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

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
2 criminal complaint, information or indictment
3 • a conviction of any crime
4 • discipline, citation, or other administrative action filed by any state or federal agency
5 which involves respondent's pharmacist license or which is related to the practice of
6 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
7 for any drug, device or controlled substance.

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

9 **3. Report to the Board**

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

18 **4. Interview with the Board**

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

24 **5. Cooperate with Board Staff**

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

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1 **6. Continuing Education**

2 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
3 pharmacist as directed by the board or its designee.

4 **7. Notice to Employers**

5 During the period of probation, respondent shall notify all present and prospective
6 employers of the decision in case number 4936 and the terms, conditions and restrictions imposed
7 on respondent by the decision, as follows:

8 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
9 respondent undertaking any new employment, respondent shall cause her direct supervisor,
10 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
11 tenure of employment) and owner to report to the board in writing acknowledging that the listed
12 individual(s) has/have read the decision in case number 4936, and terms and conditions imposed
13 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)
14 submit timely acknowledgment(s) to the board.

15 If respondent works for or is employed by or through a pharmacy employment service,
16 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
17 licensed by the board of the terms and conditions of the decision in case number 4936 in advance
18 of the respondent commencing work at each licensed entity. A record of this notification must be
19 provided to the board upon request.

20 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
21 (15) days of respondent undertaking any new employment by or through a pharmacy employment
22 service, respondent shall cause her direct supervisor with the pharmacy employment service to
23 report to the board in writing acknowledging that she has read the decision in case number 4936
24 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
25 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

1 "Employment" within the meaning of this provision shall include any full-time,
2 part-time, temporary, relief or pharmacy management service as a pharmacist or any
3 position for which a pharmacist license is a requirement or criterion for employment,
4 whether the respondent is an employee, independent contractor or volunteer.

4 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
5 **Designated Representative-in-Charge, or Serving as a Consultant**

6 During the period of probation, respondent shall not supervise any intern pharmacist, be the
7 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
8 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
9 unauthorized supervision responsibilities shall be considered a violation of probation.

10 **9. Reimbursement of Board Costs**

11 As a condition precedent to successful completion of probation, respondent shall pay to the
12 board its costs of investigation and prosecution in the amount of \$6,494.00. Respondent shall be
13 allowed to make said payments in a payment plan approved by the Board. Said payment plan
14 must conclude no later than six (6) months prior to the termination of probation.

15 There shall be no deviation from this schedule absent prior written approval by the board or
16 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
17 probation.

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

20 **10. Probation Monitoring Costs**

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

25 **11. Status of License**

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

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

5 **12. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should respondent cease practice due to
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
8 respondent may tender her license to the board for surrender. The board or its designee shall have
9 the discretion whether to grant the request for surrender or take any other action it deems
10 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
11 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
12 record of discipline and shall become a part of the respondent's license history with the board.

13 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to
14 the board within ten (10) days of notification by the board that the surrender is accepted.
15 Respondent may not reapply for any license from the board for three (3) years from the effective
16 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
17 of the date the application for that license is submitted to the board, including any outstanding
18 costs.

19 **13. Notification of a Change in Name, Residence Address, Mailing Address, Email**
20 **Address or Employment**

21 Respondent shall notify the board in writing within ten (10) days of any change of
22 employment. Said notification shall include the reasons for leaving, the address of the new
23 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
24 shall further notify the board in writing within ten (10) days of a change in name, residence
25 address, mailing address, email address, or phone number.

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

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1 **14. Tolling of Probation**

2 Except during periods of suspension, respondent shall, at all times while on probation, be
3 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
4 Any month during which this minimum is not met shall toll the period of probation, i.e., the
5 period of probation shall be extended by one month for each month during which this minimum is
6 not met. During any such period of tolling of probation, respondent must nonetheless comply
7 with all terms and conditions of probation.

8 Should respondent, regardless of residency, for any reason (including vacation) cease
9 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
10 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
11 must further notify the board in writing within ten (10) days of the resumption of practice. Any
12 failure to provide such notification(s) shall be considered a violation of probation.

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

16 "Cessation of practice" means any calendar month during which respondent is
17 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
18 Professions Code section 4000 et seq . "Resumption of practice" means any calendar
19 month during which respondent is practicing as a pharmacist for at least forty (40)
20 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

21 **15. Violation of Probation**

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

27 If respondent violates probation in any respect, the board, after giving respondent notice
28 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that

1 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
2 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
3 a petition to revoke probation or an accusation is filed against respondent during probation, the
4 board shall have continuing jurisdiction and the period of probation shall be automatically
5 extended until the petition to revoke probation or accusation is heard and decided.

6 **16. Completion of Probation**

7 Upon written notice by the board or its designee indicating successful completion of
8 probation, respondent's license will be fully restored.

9 **17. Pharmacists Recovery Program (PRP)**

10 On August 8, 2014, respondent contacted the Pharmacists Recovery Program (PRP) for
11 evaluation, and immediately enrolled in the Program. She will successfully participate in, and
12 complete the treatment contract and any subsequent addendums as recommended and provided by
13 the PRP and as approved by the board or its designee. The costs for PRP participation shall be
14 borne by the respondent.

15 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
16 the effective date of this decision is no longer considered a self-referral under Business and
17 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
18 her current contract and any subsequent addendums with the PRP.

19 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
20 the treatment contract and/or any addendums, shall be considered a violation of probation.

21 Probation shall be automatically extended until respondent successfully completes the PRP.
22 Any person terminated from the PRP program shall be automatically suspended by the board.
23 Respondent may not resume the practice of pharmacy until notified by the board in writing.

24 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
25 licensed practitioner as part of a documented medical treatment shall result in the automatic
26 suspension of practice by respondent and shall be considered a violation of probation.

27 Respondent may not resume the practice of pharmacy until notified by the board in writing.

28 During suspension, respondent shall not enter any pharmacy area or any portion of the

1 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
2 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
3 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
4 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
5 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
6 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
7 and controlled substances. Respondent shall not resume practice until notified by the board.

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

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

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

16 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
17 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
18 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

19 **18. 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 of probation. Upon request of the board or its designee, respondent shall provide documentation

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

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

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

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

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

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

25 Respondent shall completely abstain from the possession or use of alcohol, controlled
26 substances, dangerous drugs and their associated paraphernalia except when the drugs are
27 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
28 request of the board or its designee, respondent shall provide documentation from the licensed

1 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
2 treatment of the respondent. Failure to timely provide such documentation shall be considered a
3 violation of probation. Respondent shall ensure that she is not in the same physical location as
4 individuals who are using illicit substances even if respondent is not personally ingesting the
5 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
6 not supported by the documentation timely provided, and/or any physical proximity to persons
7 using illicit substances, shall be considered a violation of probation.

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

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

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

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

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

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 **21. Community Services Program**

23 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
24 board or its designee, for prior approval, a community service program in which respondent shall
25 provide free health-care related services on a regular basis to a community or charitable facility or
26 agency for at least eighty (80) hours per year. Within thirty (30) days of board approval thereof,
27 respondent shall submit documentation to the board demonstrating commencement of the
28 community service program. A record of this notification must be provided to the board upon

1 request. Respondent shall report on progress with the community service program in the
2 quarterly reports. Failure to timely submit, commence, or comply with the program shall be
3 considered a violation of probation.

4 **22. Supervised Practice**

5 During the period of probation, respondent shall practice only under the supervision of a
6 licensed pharmacist not on probation with the board. Upon and after the effective date of this
7 decision, respondent shall not practice pharmacy and her license shall be automatically suspended
8 until a supervisor is approved by the board or its designee. The supervision shall be, as required
9 by the board or its designee, either:

10 Continuous – At least 75% of a work week

11 Substantial - At least 50% of a work week

12 Partial - At least 25% of a work week

13 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

14 Within thirty (30) days of the effective date of this decision, respondent shall have her
15 supervisor submit notification to the board in writing stating that the supervisor has read the
16 decision in case number 4936 and is familiar with the required level of supervision as determined
17 by the board or its designee. It shall be the respondent's responsibility to ensure that her
18 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
19 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
20 acknowledgements to the board shall be considered a violation of probation.

21 If respondent changes employment, it shall be the respondent's responsibility to ensure that
22 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
23 the board. Respondent shall have her new supervisor, within fifteen (15) days after employment
24 commences, submit notification to the board in writing stating the direct supervisor and
25 pharmacist-in-charge have read the decision in case number 4936 and is familiar with the level of
26 supervision as determined by the board. Respondent shall not practice pharmacy and her license
27 shall be automatically suspended until the board or its designee approves a new supervisor.
28 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely

1 acknowledgements to the board shall be considered a violation of probation.

2 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

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

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

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

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

19 **23. No Ownership of Licensed Premises**

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

27 **24. Separate File of Records**

28 Respondent shall maintain and make available for inspection a separate file of all records

1 pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such
2 file or make it available for inspection shall be considered a violation of probation.

3 **25. Tolling of Suspension**

4 During the period of suspension, respondent shall not leave California for any period
5 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
6 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
7 absence from California during the period of suspension exceeding ten (10) days shall toll the
8 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
9 respondent is absent from California. During any such period of tolling of suspension,
10 respondent must nonetheless comply with all terms and conditions of probation.

11 Respondent must notify the board in writing within ten (10) days of departure, and must
12 further notify the board in writing within ten (10) days of return. The failure to provide such
13 notification(s) shall constitute a violation of probation. Upon such departure and return,
14 respondent shall not resume the practice of pharmacy until notified by the board that the period of
15 suspension has been satisfactorily completed.

16 **26. Ethics Course**

17 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
18 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
19 Failure to initiate the course during the first year of probation, and complete it within the second
20 year of probation, is a violation of probation.

21 Respondent shall submit a certificate of completion to the board or its designee within five
22 days after completing the course.

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ACCEPTANCE

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

DATED: 8/11/2014 
SONYA LEE WELLE, Respondent

ENDORSEMENT

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

Dated: 8/12/14

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

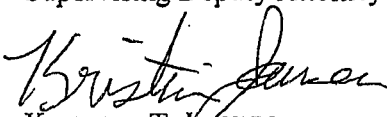

KRISTINA T. JANSEN
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 4936

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JANSEN
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5403
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4936

12 **SONYA LEE WELLS**
1407 Hillside Lane
13 Roseville, California 95661

A C C U S A T I O N

14 **Pharmacist License No. RPH 41039**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 17, 1987, the Board of Pharmacy issued Pharmacist License
22 Number RPH 41039 to Sonya Lee Wells (Respondent). The Pharmacist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on September 30,
24 2014, unless renewed.

25 **JURISDICTION**

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

Accusation

1 4. Section 4300 of the Code states in pertinent part:

2 "(a) Every license issued may be suspended or revoked.

3 "(b) The board shall discipline the holder of any license issued by the board, whose default
4 has been entered or whose case has been heard by the board and found guilty, by any of the
5 following methods:

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

8 "(3) Suspending his or her right to practice for a period not exceeding one year.

9 "(4) Revoking his or her license.

10 "(5) Taking any other action in relation to disciplining him or her as the board in its
11 discretion may deem proper..."

12 5. Section 4300.1 of the Code states:

13 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
14 of law or by order or decision of the board or a court of law, the placement of a license on a
15 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
16 jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding
17 against, the licensee or to render a decision suspending or revoking the license."

18 6. Section 4301 of the Code states in pertinent part:

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

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

25 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
26 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
27 oneself, to a person holding a license under this chapter, or to any other person or to the public, or

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1 to the extent that the use impairs the ability of the person to conduct with safety to the public the
2 practice authorized by the license.

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

5 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
6 violation of or conspiring to violate any provision or term of this chapter or of the applicable
7 federal and state laws and regulations governing pharmacy, including regulations established by the
8 board or by any other state or federal regulatory agency...”

9 7. Section 4327 of the Code makes it unlawful for any person, while on duty, to sell or
10 dispense any drug while under the influence of any dangerous drug or alcoholic beverage.

11 8. Section 4022 of the Code states

12 “Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in
13 humans or animals, and includes the following:

14 “(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without
15 prescription,” “Rx only,” or words of similar import.

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

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

21 9. Section 4060 of the Code states in pertinent part:

22 “No person shall possess any controlled substance, except that furnished to a person upon
23 the prescription of a physician...”

24 10. Health and Safety Code section 11170 provides that no person shall prescribe,
25 administer, or furnish a controlled substance for himself or herself.

26 11. Health and Safety Code section 11173, subdivision (a), provides that no person shall
27 obtain or attempt to obtain controlled substances by fraud, deceit, misrepresentation or subterfuge.

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1 12. Health and Safety Code section 11377, subdivision (a), makes it unlawful for any
2 person to possess any controlled substance classified in Schedule III, IV, or V which is not a
3 narcotic drug, unless upon a valid written prescription.

4 **DRUGS**

5 13. Clonazepam is a Schedule IV controlled substance pursuant to Health and Safety
6 Code section 11057, subdivision (d), paragraph (7), and a dangerous drug as designated by
7 Business and Professions Code section 4022. Clonazepam is a depressant and not a narcotic drug.

8 **COST RECOVERY**

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

13 **BACKGROUND INFORMATION**

14 15. From approximately August 13, 2004 to November 2, 2012, Respondent was
15 employed by a Bel Air Pharmacy in Gold River, California. On or about November 2, 2012,
16 Respondent was terminated from employment due to her theft of a controlled substance,
17 Clonazepam. In November 2012, the Bel Air Pharmacy sent letters to the Board of Pharmacy
18 reporting the termination of Respondent. Respondent admitted to stealing the Clonazepam from
19 the Bel Air Pharmacy over a period of several months, dates uncertain. Respondent admitted the
20 theft in a written statement. Respondent further admitted she consumed the embezzled
21 Clonazepam while at work performing the duties of a pharmacist.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Acts Involving Dishonesty, Deceit, or Corruption)**

24 16. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
25 Respondent committed acts involving dishonesty, deceit, or corruption by embezzling the
26 controlled substance Clonazepam from her employer over a period of several months in violation
27 of Health and Safety Code section 11173. The circumstances are as stated in paragraph 15, above.

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SECOND CAUSE FOR DISCIPLINE

(Self-Administration of a Controlled Substance to an Extent or in a Manner Dangerous or Injurious to Herself or Others)

17. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that Respondent administered the controlled substance Clonazepam to herself while on duty as a pharmacist, to an extent or in a manner dangerous to herself or others. Business and Professions Code section 4327, makes it unlawful to dispense any drug while under the influence of a dangerous drug or alcohol. Clonazepam is a dangerous drug. The circumstances are as stated in paragraph 15, above.

THIRD CAUSE FOR DISCIPLINE

(Violation of Laws Governing Controlled Substance)

18. Respondent is subject to disciplinary action under section 4301, subdivision (j), in that on dates uncertain for several months prior to Respondent's termination from employment at the Bel Air Pharmacy store, Respondent violated laws governing controlled substances. The factual circumstances are as set forth in paragraph 15, above. Respondent violated the following laws:

a. Health and Safety Code section 11170 in that Respondent furnished and administered the controlled substance Clonazepam to herself.

b. Health and Safety Code section 11173, subdivision (a), in that Respondent obtained controlled substances by fraud, deceit, misrepresentation or subterfuge.

c. Health and Safety Code section 11377, subdivision (a), and Business and Professions Code section 4060, in that Respondent possessed a controlled substance classified in Schedule IV, which is not a narcotic drug, without a valid prescription.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Laws Governing Pharmacy)

19. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that on dates uncertain for several months prior to Respondent's termination from employment at

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1 the Bel Air Pharmacy store, Respondent violated laws governing pharmacy as set forth in
2 paragraphs 15 through 18, above.

3 **DISCIPLINE CONSIDERATIONS**

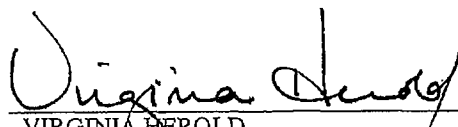
4 20. To determine the degree of discipline, if any, to be imposed on Respondent,
5 Complainant alleges that on or about July 1, 2005, a prior disciplinary action entitled "In the
6 Matter of the Accusation Against Sonya Lee Wells before the Board of Pharmacy," Case Number
7 2804, became final. Respondent's license was revoked with revocation stayed and placed on
8 probation for a period of five (5) years for embezzling the controlled substance Talwin NX (a
9 compound of pentazocine hydrochloride and naloxone hydrochloride, a Schedule IV narcotic),
10 unlawful self-administration and possession of Talwin NX, and working as a pharmacist while
11 under the influence of Talwin NX. That decision is now final and is incorporated by reference as if
12 fully set forth.

13 **PRAAYER**

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

- 16 1. Revoking or suspending Pharmacist License Number RPH 41039, issued to Sonya Lee
17 Wells;
- 18 2. Ordering Sonya Lee Wells to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.
- 22

23
24 DATED: 11/4/13


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

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