

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

In the Matter of the Accusation Against:

Case No. 5142

ABHISHEK PRABHAKAREN NAIR
3709 Hidden Springs Court
El Sobrante, CA 94803

Pharmacy Technician Registration No. TCH
58159

Respondent.

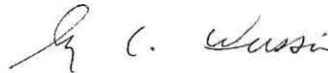
DECISION AND ORDER

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

This decision shall become effective on April 8, 2015.

It is so ORDERED on April 1, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 355-5437
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 5142

11 **ABHISHEK PRABHAKAREN NAIR**
12 **3709 Hidden Springs Court**
13 **El Sobrante, CA 94803**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacy Technician Registration No. TCH**
15 **58159**

Respondent.

16
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 Justin R. Surber, Deputy Attorney
23 General.

24 2. Abhishek Prabhakaren Nair (Respondent) is represented in this proceeding by
25 attorney Ayana K. Young, whose address is:

26 Law Office of Ayana K Young
27 2586 Appian Way
28 Pinole, CA 94564 .

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

6 10. Respondent understands that by signing this stipulation he enables the Board to issue
7 an order accepting the surrender of his Pharmacy Technician Registration without further process.

8 CONTINGENCY

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

18 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
19 copies of this Stipulated Surrender of License and Order, including Portable Document Format
20 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

21 13. This Stipulated Surrender of License and Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
25 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
26 executed by an authorized representative of each of the parties.

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

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 58159, issued to Respondent Abhishek Prabhakaren Nair, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent's Pharmacy Technician Registration and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

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

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

4. Respondent understands and agrees that if he ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent may not apply for any license, permit, or registration from the board for three (3) years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in Accusation No. 5142 shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application.

Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the Board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$4,732.00 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 5142 shall be deemed

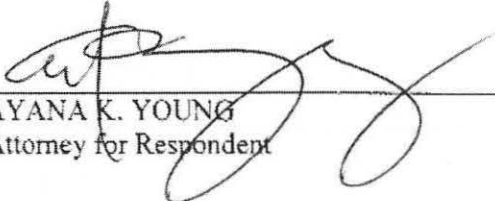
1 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
2 other proceeding seeking to deny or restrict licensure.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Surrender of License and Order and have fully
5 discussed it with my attorney, Ayana K. Young. I understand the stipulation and the effect it will
6 have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License
7 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and
8 Order of the Board of Pharmacy.

9
10 DATED: 3/2/15 
11 ABHISHEK PRABHAKAREN NAIR
Respondent

12 I have read and fully discussed with Respondent Abhishek Prabhakaren Nair the terms and
13 conditions and other matters contained in this Stipulated Surrender of License and Order. I
14 approve its form and content.

15 DATED: 3/2/15 
16 AYANA K. YOUNG
17 Attorney for Respondent

18 ENDORSEMENT

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

21 Dated: Respectfully submitted,
22 KAMALA D. HARRIS
23 Attorney General of California
24 FRANK H. PACOE
Supervising Deputy Attorney General

25
26 JUSTIN R. SURBER
27 Deputy Attorney General
Attorneys for Complainant

28

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2 other proceeding seeking to deny or restrict licensure.

3 ACCEPTANCE

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5 discussed it with my attorney, Ayana K. Young. I understand the stipulation and the effect it will
6 have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License
7 and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and
8 Order of the Board of Pharmacy.

9
10 DATED: _____

11 ABHISHEK PRABHAKAREN NAIR
12 Respondent

13 I have read and fully discussed with Respondent Abhishek Prabhakaren Nair the terms and
14 conditions and other matters contained in this Stipulated Surrender of License and Order. I
15 approve its form and content.

16 DATED: _____

17 AYANA K. YOUNG
18 Attorney for Respondent

19 ENDORSEMENT

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

22 Dated: 3/2/15

23 Respectfully submitted,

24 KAMALA D. HARRIS
25 Attorney General of California
26 FRANK H. PACOE
27 Supervising Deputy Attorney General

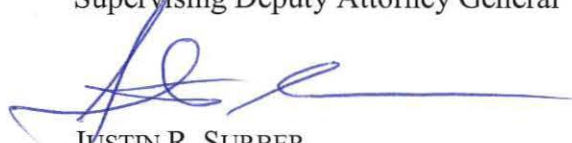
28 
JUSTIN R. SURBER
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 5142

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUSTIN R. SURBER
Deputy Attorney General
4 State Bar No. 226937
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5 San Francisco, CA 94102-7004
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13 **El Sobrante, CA 94803**

A C C U S A T I O N

14 **Pharmacy Technician Registration No. TCH**
15 **58159**

Respondent.

16
17 Complainant alleges:

18 PARTIES

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

21 2. On or about August 25, 2004, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 58159 to Abhishek Prabhakaren Nair (Respondent). The Pharmacy
23 Technician Registration was in full force and effect at all times relevant to the charges brought
24 herein and will expire on July 31, 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.

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4. Section 4300 of the Code states:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

...

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. Section 4300.1 of the Code states:

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

6. 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:

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

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

6 COSTS

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

11 DRUGS/DRUG LAWS

12 8. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code
13 section 11054(d)(13). It is a dangerous drug pursuant to Code section 4022.

14 9. Section 4060 of the Code states:

15 "No person shall possess any controlled substance, except that furnished to a person upon
16 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
17 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
18 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
19 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
20 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
21 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
22 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
23 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
24 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
25 labeled with the name and address of the supplier or producer.

26 10. Health and Safety Code section 11170 provides: "No person shall prescribe,
27 administer, or furnish a controlled substance for himself."
28

1 FIRST CAUSE FOR DISCIPLINE

2 (Possession of Controlled Substance)

3 11. Respondent is subject to disciplinary action under section 4301(j) of the code in that
4 Respondent violated the drug laws of California. On or about July 29, 2013, Respondent
5 possessed the controlled substance Marijuana in violation of Business and Professions code 4060.
6 Respondent admitted to using marijuana on occasion in mid 2013.

7 SECOND CAUSE FOR DISCIPLINE

8 (Use of Controlled Substance)

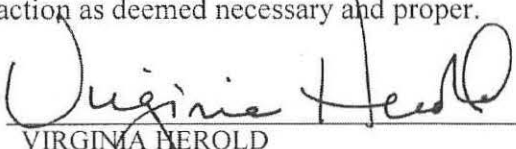
9 12. Respondent is subject to disciplinary action under section 4301(j) of the code in that
10 Respondent violated the drug laws of California. On or about July 29, 2013, Respondent self
11 administered the the controlled substance Marijuana in violation of Health and Safety Code
12 section 11170. Respondent admitted to using marijuana on occasion in mid 2013.

13 PRAYER

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 Pharmacy Technician Registration Number TCH 58159,
17 issued to Abhishek Prabhakaren Nair;
- 18 2. Ordering Abhishek Prabhakaren Nair to pay the Board of Pharmacy the reasonable
19 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code
20 section 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 7/1/14

23 
24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

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