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

In the Matter of the Accusation Against: SUSAN XIONG 1661 W. Kanai Avenue Porterville, CA 93257 Pharmacy Technician Registration No. TCH 85081 Respondent.	Case No. 5896 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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 at 5:00 p.m. on June 29, 2017.

It is so ORDERED on May 30, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
Amy Gutierrez, Pharm.D.
Board President

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BEFORE THE
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In the Matter of the Accusation Against: **SUSAN XIONG** **1661 W. Kanai Avenue** **Porterville, CA 93257** **Pharmacy Technician Registration No. TCH 85081** Respondent.	Case No. 5896 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Virginia K. Herold (Complainant) is the Executive Officer of the California State Board of Pharmacy ("Board"). Complainant brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Daniel D. McGee, Deputy Attorney General.

2. Respondent Susan Xiong (Respondent) is represented in this proceeding by attorney Joseph W. Rose, whose address is:

Joseph W. Rose
Rose Law, APC

11335 Gold Express Drive, Suite 135
Gold River, CA 95670

3. On or about August 7, 2008, the Board issued Pharmacy Technician Registration No. TCH 85081 to Susan Xiong (Respondent). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought in Accusation No. 5896, and will expire on February 28, 2018, unless renewed.

JURISDICTION

4. Accusation No. 5896 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 9, 2017. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 5896 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 5896. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation

No. 5896.

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

CONTINGENCY

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 85081 issued to Respondent Susan Xiong is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Suspension**

As part of probation, Respondent is suspended from working as a pharmacy technician for 30 days beginning the effective date of this decision.

During suspension, Respondent shall not enter any pharmacy area or any portion of or any other Board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug

selection, selection of stock, manufacturing, compounding or dispensing; nor shall Respondent manage, administer, or assist any licensee of the Board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, Respondent may continue to own or hold an interest in any licensed premises in which he or 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;
- A plea of guilty or nolo contendre in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- A conviction of any crime;
- Discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's pharmacy technician license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

3. **Report to the Board**

Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has

been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

4. **Interview with the Board**

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

5. **Cooperate with Board Staff**

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

6. **Notice to Employers**

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number 5896 and the terms, conditions and restrictions imposed on Respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment, Respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5896 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy

of the terms and conditions of the decision in case number 5896 in advance of the Respondent commencing work at each pharmacy. A record of this notification must be provided to the Board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent undertaking any new employment by or through a pharmacy employment service, Respondent shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that she has read the decision in case number 5896 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

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

7. **Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $5,242.87. Respondent shall make said payments according to a payment plan to be determined by the Board. There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board its costs of investigation and prosecution.

8. **Probation Monitoring Costs**

Respondent shall pay any costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board on a schedule

as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

9. **Status of License**

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

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

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

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

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

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

Respondent shall notify the Board in writing within ten (10) days of any change of

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

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

12. **Tolling of Probation**

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

Should Respondent, regardless of residency, for any reason (including vacation) cease working as a pharmacy technician for a minimum of 40 hours per calendar month in California, Respondent must notify the Board in writing within ten (10) days of cessation of work and must further notify the Board in writing within ten (10) days of the resumption of the work. Any failure to provide such notification(s) shall be considered a violation of probation.

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

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

13. **Violation of Probation**

If a Respondent has not complied with any term or condition of probation, the Board shall

have continuing jurisdiction over Respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

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

14. **Completion of Probation**

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

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

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

16. **Random Drug Screening**

Respondent, at her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug screening program as directed by the Board or its designee. Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be

determined by the Board or its designee. At all times Respondent shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or its designee may direct. Failure to timely submit to testing as directed shall be considered a violation of probation. Upon request of the Board or its designee, Respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the automatic suspension of work by Respondent. Respondent may not resume work as a pharmacy technician until notified by the Board in writing.

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

Respondent shall not direct, control or perform any aspect of the practice of pharmacy. 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.

17. **Work Site Monitor**

Within ten (10) days of the effective date of this decision, Respondent shall identify a work site monitor, for prior approval by the Board, who shall be responsible for supervising

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

18. **Notification of Departure**

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

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

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

20. **Tolling of Suspension**

During the period of suspension, Respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess

of ten (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days Respondent is absent from California. During any such period of tolling of suspension, Respondent must nonetheless comply with all terms and conditions of probation.

Respondent must notify the Board in writing within ten (10) days of departure, and must further notify the Board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, Respondent shall not return to work until notified by the Board that the period of suspension has been satisfactorily completed.

21. **Ethics Counseling**

Within sixty (60) calendar days of the effective date of this decision, Respondent shall enroll in a counseling program in ethics, at Respondent's expense, approved in advance by the Board or its designee. Respondent shall enroll and successfully complete a total of twenty four (24) sessions of ethics counseling under this provision. Failure to complete the 24 total sessions within the first two years of probation is a violation of probation.

Respondent shall submit certifications from the counseling program on a quarterly basis to the Board or its designee, confirming Respondent's attendance and participation in the counseling program.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Joseph W. Rose. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. 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: 04/20/17

SUSAN XIONG
Respondent

I have read and fully discussed with Respondent Susan Xiong the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4-26-17

JOSEPH W. ROSE
Attorney for Respondent

ENDORSEMENT

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

Dated: 5/4/2017

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

DANIEL D. MCGEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5896

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BEFORE THE
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In the Matter of the Accusation Against: **SUSAN XIONG** **1661 W. Kanai Avenue** **Porterville, CA 93257** **Pharmacy Technician Registration No. TCH 85081** Respondent.	Case No. 5896 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about August 7, 2008, the Board issued Pharmacy Technician Registration Number TCH 85081 to Susan Xiong ("Respondent"). The pharmacy technician registration was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on February 28, 2018, unless renewed.

JURISDICTION

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

4. Code section 4300 states, in pertinent part:

(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 . . .

5. Code section 4300.1 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.

STATUTORY PROVISIONS

6. Code section 4301 states, in pertinent part:

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

. . . .

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

. . . .

(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.

. . . .

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

. . . .

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

7. Code section 4060 states, in pertinent part:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

8. Health and Safety Code section 11170 states that "[n]o person shall prescribe, administer, or furnish a controlled substance for himself."

9. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . ."

COST RECOVERY

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

DRUG CLASSIFICATIONS

11. Phentermine 37.5 mg is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (f)(4), and a dangerous drug within the meaning of Code section 4022 in that it can only be obtained by a valid prescription. Phentermine 37.5 mg is indicated for weight loss. "Adipex-P" is a brand of phentermine 37.5 mg.

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12. Phentermine 15 mg is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (f)(4), and a dangerous drug within the meaning of Code section 4022 in that it can only be obtained by a valid prescription. Phentermine 15 mg is indicated for weight loss. "Ionamin" is a brand of phentermine 15 mg.

BACKGROUND

13. At all times relevant to the charges brought in the Accusation, Respondent was employed as a pharmacy technician at CVS Pharmacy #35 located on N. Westwood Street in Porterville, California ("pharmacy").

14. On or about June 26, 2015, the Board received a letter from S. R., Lead Coordinator of the Drug Loss Program Team for CVS Caremark, indicating that they had been notified by the pharmacy of a loss or theft of controlled substances. S. R. provided the Board with a copy of a DEA 106 form that had been submitted by the pharmacy. The pharmacy reported a theft or loss of 1,605 tablets of the controlled substance alprazolam 1 mg and indicated that the theft/loss had occurred on May 27, 2015.

15. On or about July 23, 2015, the Board received an email from K. D. of CVS Health. K. D. stated that during their investigation of the above loss/theft, they interviewed Respondent and another employee[1], who both admitted to the theft of phentermine from the pharmacy. K. D. provided the Board with copies of various documents, including a DEA 106 form that had been submitted by the pharmacy showing a theft/loss of 307 tablets of phentermine 37.5 mg and 7 tablets of phentermine 15 mg on July 7, 2015, and a statement from Respondent dated July 7, 2015. Respondent admitted in her statement that she took a total of approximately 160 tablets of phentermine 37.5 mg "once about 4 years ago and once 2 years ago", that she placed the phentermine in her pocket, and that she took the medication for self-use to lose weight.

16. On or about December 29, 2015, Board Inspector D. P. received a copy of a report from the Porterville Police Department. The report showed that on July 7, 2015, Officer V. was dispatched to the pharmacy regarding an embezzlement. Officer V. was advised by the reporting

[1] The other employee admitted to diverting a total of 100 tablets of phentermine.

party that Respondent admitted to taking about 160 phentermine pills from the pharmacy. Later, Officer V. went to Respondent's residence. Respondent admitted to Officer V. that she took a bottle and a half of weight loss pills (phentermine) for her own personal use and that she had placed them in her pocket.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

17. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (f), for unprofessional conduct, in that while on duty as a pharmacy technician at CVS Pharmacy #35, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as follows: Respondent stole or diverted a total of approximately 160 tablets of phentermine 37.5 mg from the pharmacy for self-administration.

SECOND CAUSE FOR DISCIPLINE

(Self-Administration of a Controlled Substance)

18. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (h), for unprofessional conduct, in that while employed and/or on duty as a pharmacy technician at CVS Pharmacy #35, Respondent self-administered the controlled substance phentermine without a valid or lawful prescription for the medication and/or used phentermine to an extent or in a manner dangerous or injurious to herself, others and/or the public.

THIRD CAUSE FOR DISCIPLINE

(Violations of State Laws Regulating Controlled Substances)

19. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (j), for unprofessional conduct, in that while on duty as a pharmacy technician at CVS Pharmacy #35, Respondent did the following:

a. Respondent obtained the controlled substance phentermine by fraud, deceit, misrepresentation, or subterfuge, in violation of Health and Safety Code section 11173, subdivision (a).

b. Respondent possessed the controlled substance phentermine without a valid or lawful prescription for the medication, in violation of Code section 4060.

FOURTH CAUSE FOR DENIAL

(Violations of the Pharmacy Law)

20. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (o), for unprofessional conduct, in that while employed and/or on duty as a pharmacy technician at CVS Pharmacy #35, Respondent violated or attempted to violate, directly or indirectly, a provision or term of the Pharmacy Law (Bus. & Prof. Code § 4300, et seq.), specifically, Code section 4060.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 85081, issued to Susan Xiong;

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

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

DATED: 1/27/17

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

SA2016102858