

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

In the Matter of the Accusation Against:

JULIE ANNE ELKINS, Respondent

Pharmacy Technician Registration No. TCH 159362

Agency Case No. 6874

OAH No. 2020080713

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 December 23, 2020.

It is so ORDERED on November 23, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg Lippe", is written over the printed name.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
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8

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

13 In the Matter of the Accusation Against:

14 **JULIE ANNE ELKINS**
15 **693 Sugarwood Ct.**
16 **Galt, CA 95632**

17 **Pharmacy Technician License No. 159362**

18 Respondent.

Case No. 6874

OAH No. 2020080713

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19
20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
25 (Board). She brought this action solely in her official capacity and is represented in this matter by
26 Xavier Becerra, Attorney General of the State of California, by Patricia Webber Heim, Deputy
27 Attorney General.

28 ///

2. Respondent Julie Anne Elkins (Respondent) is represented in this proceeding by attorney Jacob G. Reinhardt, Esq., whose address is: 2550 Ninth Street, Suite 101, Berkeley, CA 94710

3. On or about March 6, 2017, the Board issued Pharmacy Technician License No. 159362 to Respondent. The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought in Accusation No. 6874, and will expire on July 31, 2022, unless renewed.

JURISDICTION

4. Accusation No. 6874 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 May 27, 2020. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 6874 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. 6874. 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.

///

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 6874.

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

7 **CONTINGENCY**

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. 159362 issued to Respondent Julie Anne Elkins is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. 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 contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's 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 such occurrence shall be considered a violation of probation.

2. 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,

1 probation shall be automatically extended until such time as the final report is made and accepted
2 by the board.

3 **3. Interview with the Board**

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

9 **4. Cooperate with Board Staff**

10 Respondent shall timely cooperate with the board's inspection program and with the board's
11 monitoring and investigation of respondent's compliance with the terms and conditions of her
12 probation, including but not limited to: timely responses to requests for information by board
13 staff; timely compliance with directives from board staff regarding requirements of any term or
14 condition of probation; and timely completion of documentation pertaining to a term or condition
15 of probation. Failure to timely cooperate shall be considered a violation of probation.

16 **5. Reporting of Employment and Notice to Employers**

17 During the period of probation, Respondent shall notify all present and prospective
18 employers of the decision in case number 6874 and the terms, conditions and restrictions imposed
19 on respondent by the decision, as follows:

20 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
21 undertaking any new employment, Respondent shall report to the Board in writing the name,
22 physical address, and mailing address of each of her employer(s), and the name(s) and telephone
23 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated
24 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
25 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
26 employment. Respondent shall sign and return to the Board a written consent authorizing the
27 Board or its designee to communicate with all of Respondent's employer(s) and supervisor(s),
28 and authorizing those employer(s) or supervisor(s) to communicate with the Board or its

1 designee, concerning Respondent's work status, performance, and monitoring. Failure to comply
2 with the requirements or deadlines of this condition shall be considered a violation of probation.

3 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
4 Respondent undertaking any new employment, Respondent shall cause (a) her direct supervisor,
5 (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
6 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
7 Board in writing acknowledging that the listed individual(s) has/have read the decision in case
8 number 6874, and terms and conditions imposed thereby. If one person serves in more than one
9 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's
10 responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the
11 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
12 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the Board in
13 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
14 in case number 6874, and the terms and conditions imposed thereby.

15 If Respondent works for or is employed by or through an employment service, Respondent
16 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board
17 of the decision in case number 6874, and the terms and conditions imposed thereby in advance of
18 respondent commencing work at such 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 an employment service,
22 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
23 service to report to the Board in writing acknowledging that he or she has read the decision in
24 case number, and the terms and conditions imposed thereby. It shall be Respondent's
25 responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

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

"Employment" within the meaning of this provision includes any full-time, part-time, temporary, relief, or employment/management service position as a Pharmacy Technician, or any position for which a Pharmacy Technician is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

6. Notification of Change(s) in Name, Address(es), or Phone Number(s)

Respondent shall further notify the Board in writing within ten (10) days of any change in name, residence address, mailing address, e-mail address or phone number.

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

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 \$3,500. Respondent shall make said payments as follows:

Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation.

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.

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

1 tolled. Failure to maintain an active, current Pharmacy Technician License shall be considered a
2 violation of probation.

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

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

8 Following the effective date of this decision, should Respondent cease practice due to
9 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
10 Respondent may relinquish her license, including any indicia of licensure issued by the Board,
11 along with a request to surrender the license. The Board or its designee shall have the discretion
12 whether to accept the surrender or take any other action it deems appropriate and reasonable.
13 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
14 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
15 become a part of the Respondent's license history with the Board.

16 Upon acceptance of the surrender, Respondent shall relinquish her pocket and/or wall
17 license, including any indicia of licensure not previously provided to the Board within ten (10)
18 days of notification by the Board that the surrender is accepted if not already provided.
19 Respondent may not reapply for any license from the Board for three (3) years from the effective
20 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
21 of the date the application for that license is submitted to the Board, including any outstanding
22 costs.

23 **11. Certification Prior to Resuming Work**

24 Respondent shall be suspended, and shall not work as a pharmacy technician, until she has
25 been certified as defined by Business and Professions Code section 4202, subdivision (a)(4), has
26 submitted proof of certification to the Board, and has been notified by the Board or its designee
27 that she may begin work. Failure to achieve certification within six (6) months of the effective
28 date shall be considered a violation of probation.

1 During suspension, Respondent shall not enter any pharmacy area or any portion of any
2 other Board licensed premises of a wholesaler, third-party logistics provider, veterinary food-
3 animal drug retailer or any other distributor of drugs which is licensed by the Board, or any
4 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled
5 substances are maintained.

6 Respondent shall not do any act involving drug selection, selection of stock, manufacturing,
7 compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the
8 board. Respondent shall not have access to or control the ordering, distributing, manufacturing or
9 dispensing of dangerous drugs and/or dangerous devices or controlled substances.

10 During this suspension, Respondent shall not engage in any activity that requires licensure
11 as a pharmacy technician. Respondent shall not direct or control any aspect of the practice of
12 pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or
13 dangerous devices, or controlled substances.

14 Failure to comply with any such suspension shall be considered a violation of probation.

15 **12. Practice Requirement – Extension of Probation**

16 Except during periods of suspension, Respondent shall, at all times while on probation, be
17 employed as a Pharmacy Technician in California for a minimum of 80 hours per calendar month.
18 Any month during which this minimum is not met shall extend the period of probation by one
19 month. During any such period of insufficient employment, Respondent must nonetheless
20 comply with all terms and conditions of probation, unless Respondent receives a waiver in
21 writing from the Board or its designee.

22 If Respondent does not practice as a Pharmacy Technician in California for the minimum
23 number of hours in any calendar month, for any reason (including vacation), Respondent shall
24 notify the Board in writing within ten (10) days of the conclusion of that calendar month. This
25 notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s)
26 for the interruption or reduction in practice; and the anticipated date(s) on which Respondent will
27 resume practice at the required level. Respondent shall further notify the Board in writing within
28 ten (10) days following the next calendar month during which Respondent practices as a

1 Pharmacy Technician in California for the minimum of hours. Any failure to timely provide such
2 notification(s) shall be considered a violation of probation.

3 It is a violation of probation for Respondent's probation to be extended pursuant to the
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,
5 exceeding thirty-six (36) months. The Board or its designee may post a notice of the extended
6 probation period on its website.

7 **13. Violation of Probation**

8 If Respondent has not complied with any term or condition of probation, the Board shall
9 have continuing jurisdiction over Respondent, and the Board shall provide notice to Respondent
10 that probation shall automatically be extended, until all terms and conditions have been satisfied
11 or the Board has taken other action as deemed appropriate to treat the failure to comply as a
12 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
13 Board or its designee may post a notice of the extended probation period on its website.

14 If Respondent violates probation in any respect, the Board, after giving Respondent notice
15 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
16 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
17 probation, or the preparation of an accusation or petition to revoke probation is requested from
18 the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of
19 probation shall be automatically extended until the petition to revoke probation or accusation is
20 heard and decided.

21 **14. Completion of Probation**

22 Upon written notice by the Board or its designee indicating successful completion of
23 probation, Respondent's license will be fully restored.

24 **15. Ethics Counseling**

25 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
26 submit to the Board or its designee, for prior approval, an appropriate program of educational
27 counseling related to ethics, to be completed at Respondent's expense. The ethics counseling
28 shall consist of at least eight hours.

1 Failure to timely submit for approval or complete the approved ethics counseling shall be
2 considered a violation of probation. The period of probation will be automatically extended until
3 such ethics counseling is successfully completed and written proof, in a form acceptable to the
4 Board, is provided to the Board or its designee.

5 Within five (5) days of completion, Respondent shall submit a copy of the certificate of
6 completion to the Board or its designee. Failure to timely enroll in an approved ethics counseling
7 program, to initiate the counseling during the first year of probation, to successfully complete it
8 before the end of the second year of probation, or to timely submit proof of completion to the
9 Board or its designee, shall be considered a violation of probation.

10 **16. No Ownership or Management of Licensed Premises**

11 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
12 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
13 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
14 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
15 days following the effective date of this decision and shall immediately thereafter provide written
16 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
17 documentation thereof shall be considered a violation of probation.

18 **ACCEPTANCE**

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Jacob G. Reinhardt, Esq. I understand the stipulation and the effect
21 it will have on my Pharmacy Technician License. I enter into this Stipulated Settlement and
22 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
23 Decision and Order of the Board of Pharmacy.

24
25 DATED: _____

26 JULIE ANNE ELKINS
27 Respondent
28

1 Failure to timely submit for approval or complete the approved ethics counseling shall be
2 considered a violation of probation. The period of probation will be automatically extended until
3 such ethics counseling is successfully completed and written proof, in a form acceptable to the
4 Board, is provided to the Board or its designee.

5 Within five (5) days of completion, Respondent shall submit a copy of the certificate of
6 completion to the Board or its designee. Failure to timely enroll in an approved ethics counseling
7 program, to initiate the counseling during the first year of probation, to successfully complete it
8 before the end of the second year of probation, or to timely submit proof of completion to the
9 Board or its designee, shall be considered a violation of probation.

10 **16. No Ownership or Management of Licensed Premises**

11 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
12 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
13 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
14 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)
15 days following the effective date of this decision and shall immediately thereafter provide written
16 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide
17 documentation thereof shall be considered a violation of probation.

18 **ACCEPTANCE**

19 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
20 discussed it with my attorney, Jacob G. Reinhardt, Esq. I understand the stipulation and the effect
21 it will have on my Pharmacy Technician License. I enter into this Stipulated Settlement and
22 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
23 Decision and Order of the Board of Pharmacy.

24
25 DATED: 10/12/2020

Julie Anne Elkins
26 JULIE ANNE ELKINS
27 Respondent
28

1 I have read and fully discussed with Respondent Julie Anne Elkins the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4 DATED: _____

JACOB G. REINHARDT, ESQ.
Attorney for Respondent

6
7 **ENDORSEMENT**

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

10 DATED: _____

Respectfully submitted,

11
12 XAVIER BECERRA
Attorney General of California
13 DAVID E. BRICE
Supervising Deputy Attorney General

14
15 PATRICIA WEBBER HEIM
Deputy Attorney General
16 *Attorneys for Complainant*

17
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19 34468459.docx

1 I have read and fully discussed with Respondent Julie Anne Elkins the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4 DATED: 10/12/20


JACOB G. REINHARDT, ESQ.
Attorney for Respondent


6
7 **ENDORSEMENT**

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

10 DATED: October 13, 2020

Respectfully submitted,

11
12 XAVIER BECERRA
Attorney General of California
13 DAVID E. BRICE
Supervising Deputy Attorney General

14 
15 PATRICIA WEBBER HEIM
16 Deputy Attorney General
17 *Attorneys for Complainant*

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19 34468459.docx

Exhibit A

Accusation No. 6874

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
3 SUMMER D. HARO
Deputy Attorney General
4 State Bar No. 245482
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7 E-mail: Summer.Haro@doj.ca.gov
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 6874

14 **JULIE ANNE ELKINS**
15 **693 Sugarwood Ct.**
Galt, CA 95632

ACCUSATION

16 **Pharmacy Technician License No. 159362**

17 Respondent.

18
19 **PARTIES**

20 1. Anne Sodergren ("Complainant") brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer
22 Affairs.

23 2. On or about March 6, 2017, the Board of Pharmacy issued Pharmacy Technician
24 License Number 159362 to Julie Anne Elkins ("Respondent"). The Pharmacy Technician
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on July 31, 2020, unless renewed.

27 ///

28 ///

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 AND REGULATORY PROVISIONS

A. Business & Professions Code

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 . . . 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.

....

(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:

A person shall not 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, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

B. Health & Safety Code

8. Health and Safety Code section 11173 states, in pertinent part:

No 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; or (2) by the concealment of a material fact.

COST RECOVERY

9. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licensee 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

10. Hydrocodone/acetaminophen is a Schedule II controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a Schedule II controlled substance pursuant to Title 21, CFR, section 1308.12, subdivision (b)(1)(vi). Hydrocodone/acetaminophen is also a

1 dangerous drug pursuant to Code section 4022. Hydrocodone/acetaminophen is used to treat
2 pain. "Norco" is a brand of hydrocodone/acetaminophen.

3 11. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
4 section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Code section 4022.
5 Oxycodone is used to treat pain. "Roxicodone" is a brand of oxycodone.

6 12. Methadone is a Schedule II controlled substance pursuant to Health and Safety Code
7 section 11055, subdivision (c)(14), and a dangerous drug pursuant to Code section 4022.
8 Methadone is used to treat pain and opiate addiction.

9 **CURES PROGRAM**

10 13. The Controlled Substance Utilization Review and Evaluation System ("CURES")
11 program was initiated in 1998 and required mandatory monthly pharmacy reporting of dispensed
12 Schedule II controlled substances. The program was amended in January 2005 to include
13 mandatory weekly reporting of Schedule II to IV medications. The data is collected statewide
14 and can be used by healthcare professionals, such as pharmacists and prescribers, to evaluate and
15 determine whether their patients are utilizing their controlled substances safely and appropriately.

16 14. The component of CURES which is accessible to pharmacists and prescribers is
17 called the Prescription Drug Monitoring Program ("PDMP"). Registration for access to the
18 PDMP has been available since February 2009. The data may be used to aid in determining
19 whether a patient sees multiple prescribers, frequents multiple pharmacies to fill controlled
20 substance prescriptions, and/or obtains early refills of controlled substance prescriptions.

21 **FACTUAL ALLEGATIONS**

22 15. On or about June 21, 2019, the Board received a notification from Raley's Pharmacy
23 #302 ("Raley's"), in Galt, California, that it had discovered a theft or loss of sixty (60) tablets of
24 hydrocodone/acetaminophen 5/325mg, and that the cause of the loss was under investigation. On
25 or about July 23, 2019, the Board received an e-mail from Raley's stating that Respondent, who
26 was employed as a Pharmacy Technician at Raley's, had admitted to taking the sixty (60) tablets
27 of hydrocodone/acetaminophen 5/325mg, and that Respondent's employment with Raley's had
28 been terminated. That e-mail also included Raley's documents regarding its investigation into the

1 theft, which included a statement by pharmacist technician R.H. and a statement by Respondent.
2 On or about August 8, 2019, the Board received another e-mail from Raley's with an Audit
3 Summary table for hydrocodone/acetaminophen 5/325mg tablets from May 1, 2019, through June
4 18, 2019.

5 16. On or about August 12, 2019, Board Inspector J.F. conducted an inspection of
6 Raley's; he was assisted by Pharmacist in Charge S.Q. and pharmacist Q.T. Inspector J.F. and
7 S.Q. reviewed the investigative documents previously provided by Raley's, as well as the
8 following:

- 9 a. Statement by pharmacist K.T.;
- 10 b. Raley's prescription computer system transaction details for prescription
11 number 2039541;
- 12 c. The prescription status of prescription number 2039541;
- 13 d. Schedule II Controlled Substance Dispense Log sheet for
hydrocodone/acetaminophen 5/325mg showing prescription number 2039541;
- 14 e. Raley's Biennial Inventories for hydrocodone/acetaminophen 5/325mg;
- 15 f. Raley's June 18, 2019, On-Hand count for hydrocodone/acetaminophen
16 5/325mg;
- 17 g. Raley's weekly schedule for June 9, 2019, through June 15, 2019; and
- 18 h. Raley's Schedule and time card punches for Respondent and R.H. on June 14,
2019.

19 Inspector J.F. reviewed those documents and conducted an audit for Raley's hydrocodone/
20 acetaminophen 5/325mg tablets and for Raley's hydrocodone/acetaminophen 10/325mg tablets.

21 17. Inspector J.F.'s review of Raley's documents, the statements of R.H., K.T., and
22 Respondent, and his audit of Raley's hydrocodone/acetaminophen 5/325mg tablets, showed the
23 following: on June 14, 2019, prescription number 2039541, for sixty (60) tablets of
24 hydrocodone/acetaminophen 5/325mg had been filled for patient J.S. and was awaiting pickup.
25 Respondent and R.H. were the only pharmacy technicians working at Raley's on June 14, 2019,
26 and that day R.H. received a phone call from a family member that required her to leave work
27 before 5:00 p.m. R.H. forgot to log out of Raley's computer system before she left. On June 15,
28 2019, K.T. attempted to process prescription number 2039541 for patient J.S., and discovered that

1 it had been processed on June 14, 2019, but then reversed on June 14, 2019, at 5:22 p.m. When
2 K.T. could not locate the prescription in the Raley's pharmacy area, she called patient J.S. who
3 denied having picked up the prescription. K.T. called Respondent who denied having any
4 knowledge of the prescription. K.T. located the prescription monograph (patient information
5 sheet) and unsigned signature tag in the shred bin, but the prescription vial was still missing.

6 18. Raley's prescription computer system transaction details for prescription number
7 2039541 showed that sixty (60) tablets of hydrocodone/acetaminophen 5/325mg of had been
8 dispensed on June 14, 2019, at 9:27 am, with a Drug Utilization Review ("DUR") Verification on
9 June 14, 2019, at 10:36 am, another verification on June 14, 2019, at 10:38 am, and then Released
10 to Patient on June 14, 2019, at 5:22 pm. However, Raley's Pharmacy Dispense Log sheet for
11 hydrocodone/acetaminophen 5/325mg showed that the same prescription was dispensed on June
12 14, 2019 for a quantity of 60 tablets, but marked as "Missing," and was then logged as being
13 dispensed again on June 16, 2019, and marked as "replacement." Raley's computer prescription
14 status for prescription number 2039541 showed that on June 14, 2019, at 9:18 am, it was "paid",
15 that there was a "reversal" at 9:19 am, another "paid" at 9:20 am, and another "reversal" at 5:22
16 pm under R.H.'s credentials even though she was not at Raley's at that time. The final
17 prescription status for prescription number 2039541 was on June 15, 2019, at 9:48 am, which
18 showed it was "paid" for a "replacement prescription."

19 19. During Raley's investigation into the missing drugs, Respondent admitted that on
20 June 14, 2019, after R.H. left, she had accidentally "returned" a prescription for
21 hydrocodone/acetaminophen 5/325mg, and then hid the bottle with the pills on a shelf because
22 she did not want to tell anyone about her mistake. Respondent further admitted that when she
23 returned to work she saw that the bottle with the pills was still on the shelf, and she decided to
24 take them home to get rid of the pills. Respondent claimed that she flushed the medication down
25 her toilet at home. Inspector J.F.'s audit showed that Raley's was short sixty (60) tablets of
26 hydrocodone/acetaminophen 5/325mg.

27 20. On or about August 12, 2019, Inspector J.F. spoke with Respondent on the phone
28 regarding prescription number 2039541. During that phone call Respondent again admitted that

1 on June 14, 2019, she accidentally reversed that prescription out of the system, and that instead of
2 correcting the mistake and re-dispensing the prescription, she hid the bottle with pills on a shelf.
3 Respondent also admitted that when she returned to work on June 17, 2019, she saw that the
4 prescription bottle was still where she had hidden it, and that she decided to take the medication
5 home where she flushed the pills and threw away the empty bottle.

6 21. On or about October 23, 2019, Inspector J.F. acquired and reviewed a Patient Activity
7 Report from the CURES system, which showed that Respondent had prescriptions for oxycodone
8 5mg, methadone 10 mg, and hydrocodone/acetaminophen 10/325mg. Respondent did not have a
9 prescription for hydrocodone/acetaminophen 5/325mg.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct - Theft of a Controlled Substance)**

12 22. Respondent is subject to disciplinary action for unprofessional conduct under Code
13 section 4301, subdivisions (f), (j), and (o), in that Respondent committed acts involving moral
14 turpitude, dishonesty, fraud, deceit, or corruption, and removed and possessed controlled
15 substances and dangerous drugs without a prescription, as set forth in paragraphs 15 through 21,
16 and their subparts, above.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Prohibited Acts – Fraud, Deceit)**

19 23. Respondent is subject to disciplinary action for obtaining, attempting to obtain,
20 procuring, or attempting to procure controlled substances by fraud, deceit, misrepresentation, or
21 the concealment of a material fact, in violation of Health and Safety Code section 11173,
22 subdivision (a), by and through Code section 4301, subdivision (o), in that Respondent took
23 controlled substances and dangerous drugs without a prescription, or authorization from Raley's,
24 as set forth in paragraphs 15 through 21, and their subparts, above.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Unauthorized Possession of a Controlled Substance)**

27 24. Respondent is subject to disciplinary action for the unauthorized possession of a
28 controlled substance in violation of Code section 4060, by and through Code section 4301,

subdivision (o), in that Respondent removed and possessed controlled substances without a prescription for, as set forth in paragraphs 15 through 21, and their subparts, above.

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 License Number 159362, issued to Julie Anne Elkins;
2. Ordering Julie Anne Elkins 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: May 19, 2020



ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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