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

In the Matter of the Accusation Against:

CHRISTINE QUESENBERRY dba WESTSIDE PHARMACY, Respondent.

Original Permit No. PHY 37852

Agency Case No. 6897

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reproval 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 October 7, 2021.

It is so ORDERED on September 7, 2021.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

By

Seung W. Oh, Pharm.D. Board President

1	ROB BONTA		
2	Attorney General of California CHAR SACHSON		
3	Supervising Deputy Attorney General LESLIE E. BRAST		
4	Deputy Attorney General State Bar No. 203296		
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004		
6	Telephone: (415) 510-3373 Facsimile: (415) 703-5480		
7	Attorneys for Complainant		
8	BEFORE THE		
9	BOARD OF PHARMACY		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALLEODNIA		
11			
12	In the Matter of the Accusation Against:	Case No. 6897	
13	CHRISTINE QUESENBERRY, dba WESTSIDE PHARMACY	STIPULATED SETTLEMENT AND DISCIPLINARY ORDER FOR PUBLIC	
14	1401 Mission Street Santa Cruz, CA 95060	REPROVAL	
15	Original Permit No. PHY 37852	[Bus. & Prof. Code § 495]	
16			
17	Respondent.		
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19	IT IS HEREBY STIPULATED AND AGR	EED by and between the parties to the above-	
20	entitled proceedings that the following matters are true:		
21	<u>PARTIES</u>		
22	1. Anne Sodergren (Complainant) is the	Executive Officer of the Board of Pharmacy	
23	(Board), Department of Consumer Affairs. She b	rought this action solely in her official capacity	
24	and is represented in this matter by Rob Bonta, A	ttorney General of the State of California, by	
25	Leslie E. Brast, Deputy Attorney General.		
26	2. Respondent Christine Quesenberry (F	Respondent) is representing herself in this	
27	proceeding and has chosen not to exercise her rig	ht to be represented by counsel.	
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JURISDICTION

- 3. On or about April 14, 1992, the Board issued Original Permit No. PHY 37852 to Respondent to do business as Westside Pharmacy. The Original Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 6897, and will expire on April 1, 2022, unless renewed.
- 4. Accusation No. 6897 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 October 20, 2020. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 6897 is attached as Exhibit A, and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read and understands the charges and allegations in Accusation No. 6897. Respondent has also carefully read and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reproval.
- 6. 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 be represented by counsel at her own expense; 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.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 6897.
- 9. Respondent agrees that her Original Permit is subject to discipline and agrees to be bound by the Disciplinary Order below.

CONTINGENCY

- 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and Board staff may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Settlement and Disciplinary Order for Public Reproval 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 for Public Reproval 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 Original Permit No. PHY 37852 issued Respondent Christine Quesenberry, dba Westside Pharmacy, shall be publicly reproved by the Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation No. 6897, attached as Exhibit A.

1	Cost Recovery. Respondent shall pay \$4,801.50 to the Board for its costs associated with	
2	the investigation and enforcement of this matter. Respondent shall be permitted to pay these	
3	costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as	
4	ordered, Respondent shall not be allowed to renew her Original Permit until she pays costs in ful	
5	<u>ACCEPTANCE</u>	
6	I have carefully read the Stipulated Settlement and Disciplinary Order for Public Reproval.	
7	I understand the stipulation and the effect it will have on my Original Permit. I enter into this	
8	Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and	
9	intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.	
10		
11	DATED:	
12	CHRISTINE QUESENBERRY dba WESTSIDE PHARMACY	
13	Respondent	
14		
15	ENDORSEMENT The first of the local desired and the local desired	
16	The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby	
17	respectfully submitted for consideration by the Board of Pharmacy of the Department of	
18	Consumer Affairs.	
19	DATED: Respectfully submitted,	
20	ROB BONTA	
21	Attorney General of California CHAR SACHSON	
22	Supervising Deputy Attorney General	
23		
24	LESLIE E. BRAST Deputy Attorney General	
25	Attorneys for Complainant	
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1	Cost Recovery. Respondent shall pay \$4,801.50 to the Board for its costs associated with	
2	the investigation and enforcement of this matter. Respondent shall be permitted to pay these	
3	costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as	
4	ordered, Respondent shall not be allowed to renew her Original Permit until she pays costs in full.	
5	ACCEPTANCE	
6	I have carefully read the Stipulated Settlement and Disciplinary Order for Public Reproval.	
7	I understand the stipulation and the effect it will have on my Original Permit. I enter into this	
8	Stipulated Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and	
9	intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.	
10		
11	DATED: 6.1.21	
12	CHRISTINE QUESENBERRY dba WESTSIDE PHARMACY	
13	Respondent	
14	TO A LES COMO CUIO NACIONA FOR	
15		
16	respectfully submitted for consideration by the Board of Pharmacy of the Department of	
17		
17 18	Consumer Affairs.	
18	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA	
18 19	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA Attorney General of California CHAR SACHSON	
18 19 20	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA Attorney General of California	
18 19 20 21	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA Attorney General of California CHAR SACHSON	
18 19 20 21 22	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA Attorney General of California CHAR SACHSON Supervising Deputy Attorney General LESLIE E. BRAST	
18 19 20 21 22 23	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA Attorney General of California CHAR SACHSON Supervising Deputy Attorney General	
18 19 20 21 22 23 24	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA Attorney General of California CHAR SACHSON Supervising Deputy Attorney General LESLIE E. BRAST Deputy Attorney General	
18 19 20 21 22 23 24 25	Consumer Affairs. DATED: June 14, 2021 Respectfully submitted, ROB BONTA Attorney General of California CHAR SACHSON Supervising Deputy Attorney General LESLIE E. BRAST Deputy Attorney General	

Exhibit A

Accusation No. 6897

1	XAVIER BECERRA		
2	Attorney General of California CHAR SACHSON		
3	Supervising Deputy Attorney General LESLIE E. BRAST Deputy Attorney General		
4	Deputy Attorney General State Bar No. 203296 455 Golden Gate Avenue, Suite 11000		
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004		
6	Telephone: (415) 510-3373 Facsimile: (415) 703-5480		
7	Attorneys for Complainant		
8	BEFORI	E THE	
9	BOARD OF PHARMACY		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11			
12	In the Matter of the Accusation Against:	Case No. 6897	
13	CHRISTINE QUESENBERRY,	ACCUSATION	
14	dba WESTSIDE PHARMACY 1401 Mission Street Santa Cruz, CA 95060		
15	Original Permit No. PHY 37852		
16	Respondent.		
17	DA DEVEC		
18	PARTIES 1		
19	1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity		
20	as the Executive Officer of the Board of Pharmacy	· · · · · · · · · · · · · · · · · · ·	
21	•	issued Original Permit No. PHY 37852 to	
22	Christine Quesenberry (Respondent) to do busines		
23	was in full force and effect at all times relevant to	the charges brought herein, and will expire on	
24	April 1, 2021, unless renewed.		
25	<u>JURISDI</u>		
26	3. This Accusation is brought before the	Board under the authority of the following	
27	laws. All section references are to the Business ar	nd Professions Code (Code) unless otherwise	
28	indicated.		

- 4. Code section 4011 provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].
- 5. Code section 4300(a) provides that every license issued by the Board may be suspended or revoked.
- 6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, 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

7. Code section 4301 states:

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:

. . .

- (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...
- 8. Code section 4307, subdivision (a), states:

Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manger, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

- (1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.
- (2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

1	9. Code section 4115, subdivision (e) states:	
2	A person shall not act as a pharmacy technician without first being licensed by	
3	the board as a pharmacy technician.	
4	10. California Code of Regulations, title 16, section 1793.2 addresses the duties of a	
5	pharmacy technician and states:	
6 7	"Nondiscretionary tasks" as used in Business and Professions Code section 4115, include:	
8	(a) removing the drug or drugs from stock;	
9	(b) counting, pouring, or mixing pharmaceuticals;	
10	(c) placing the product into a container;	
11	(d) affixing the label or labels to the container;	
12	(e) packaging and repackaging.	
13	11. California Code of Regulations, title 16, section 1770, states:	
14	For the purpose of denial, suspension, or revocation of a personal or facility	
15	license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner	
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18		
19	12. Code section 125.3 provides, in pertinent part, that the Board may request the	
20	administrative law judge to direct a licentiate found to have committed a violation of the licensing	
21	act to pay a sum not to exceed its reasonable costs of investigation and enforcement.	
22	CAUSE FOR DISCIPLINE	
23	(Unprofessional Conduct: Aiding and Abetting Unlicensed Practice)	
24	13. Respondent has subjected her Original Permit to disciplinary action under Code	
25	sections 4301 (o) and 4115 (e) for unprofessional conduct in that, between approximately	
26	September 7, 2017 and May 17, 2019, she permitted an unlicensed individual to act as a	
27	pharmacy technician, including but not limited to the performance of nondiscretionary tasks	
28	described in California Code of Regulations section 1793.2, in violation of pharmacy law.	

1	4. Taking such other and	further action as deemed necessary and proper.
2		
3	0/40/0000	Anno. Sodororon
4	DATED:	Anne Sodergren ANNE SODERGREN
5		Executive Officer
6		Board of Pharmacy Department of Consumer Affairs State of California
7 8		Complainant
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(CHRISTINE QUESENBERRY; WESTSIDE PHARMACY) ACCUSATION