

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

**In the Matter of the Accusation Against:**

**DEBRA ANN MAGNESS, Respondent**

**Pharmacist License No. RPH 48381**

**Agency Case No. 7363**

**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 October 25, 2023.

It is so ORDERED on September 25, 2023.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly distinguishable.

Seung W. Oh, Pharm.D.  
Board President

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

12 In the Matter of the Accusation Against:  
13 **DEBRA ANN MAGNESS**  
14 **623 Shadow Creek Drive**  
**San Jose, CA 95136**

15 **Pharmacist License No. RPH 48381**

16 Respondent.

Case No. 7363

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

20 **PARTIES**

21 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
22 (Board). She brought this action solely in her official capacity and is represented in this matter by  
23 Rob Bonta, Attorney General of the State of California, by Christine J. Lee, Deputy Attorney  
24 General .

25 2. Respondent Debra Ann Magness (Respondent) is representing herself in this  
26 proceeding and has chosen not to exercise her right to be represented by counsel.  
27  
28

1           3.     On or about September 15, 1995, the Board issued Pharmacist License No. RPH  
2 48381 to Debra Ann Magness (Respondent). The Pharmacist License was suspended on October  
3 4, 2022. The Pharmacist License will expire on November 30, 2024 unless renewed.

4                                   **JURISDICTION**

5           4.     Accusation No. 7363 was filed before the Board, and is currently pending against  
6 Respondent. The Accusation and all other statutorily required documents were properly served  
7 on Respondent on May 16, 2023. Respondent timely filed her Notice of Defense contesting the  
8 Accusation.

9           5.     A copy of Accusation No. 7363 is attached as exhibit A and incorporated herein by  
10 reference.

11                                   **ADVISEMENT AND WAIVERS**

12           6.     Respondent has carefully read, and understands the charges and allegations in  
13 Accusation No. 7363. Respondent has also carefully read, and understands the effects of this  
14 Stipulated Settlement and Disciplinary Order.

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

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

24                                   **CULPABILITY**

25           9.     Respondent admits the truth of each and every charge and allegation in Accusation  
26 No. 7363.

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

**CONTINGENCY**

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy 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 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.

12. 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.

13. 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.

14. 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 Pharmacist License No. RPH 48381 issued to Respondent Debra Ann Magness is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) 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, probation shall be automatically extended until such time as the final report is made and accepted by the board.

## **3. 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,

1 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
2 the period of probation, shall be considered a violation of probation.

3 **4. Cooperate with Board Staff**

4 Respondent shall timely cooperate with the board's inspection program and with the board's  
5 monitoring and investigation of respondent's compliance with the terms and conditions of  
6 Respondent's probation, including but not limited to: timely responses to requests for information  
7 by board staff; timely compliance with directives from board staff regarding requirements of any  
8 term or condition of probation; and timely completion of documentation pertaining to a term or  
9 condition of probation. Failure to timely cooperate shall be considered a violation of probation.

10 **5. Continuing Education**

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

13 **6. Reporting of Employment and Notice to Employers**

14 During the period of probation, respondent shall notify all present and prospective  
15 employers of the decision in case number 7363 and the terms, conditions and restrictions imposed  
16 on respondent by the decision, as follows:

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

1           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
2 respondent undertaking any new employment, respondent shall cause (a) Respondent's direct  
3 supervisor, (b) Respondent's pharmacist-in-charge, designated representative-in-charge,  
4 responsible manager, or other compliance supervisor, and (c) the owner or owner representative  
5 of Respondent's employer, to report to the board in writing acknowledging that the listed  
6 individual(s) has/have read the decision in case number 7363, and terms and conditions imposed  
7 thereby. If one person serves in more than one role described in (a), (b), or (c), the  
8 acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these  
9 acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s)  
10 serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause  
11 the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of  
12 the change acknowledging that he or she has read the decision in case number 7363, and the  
13 terms and conditions imposed thereby.

14           If respondent works for or is employed by or through an employment service, respondent  
15 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board  
16 of the decision in case number 7363, and the terms and conditions imposed thereby in advance of  
17 respondent commencing work at such licensed entity. A record of this notification must be  
18 provided to the board upon request.

19           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
20 (15) days of respondent undertaking any new employment by or through an employment service,  
21 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service  
22 to report to the board in writing acknowledging that he or she has read the decision in case  
23 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to  
24 ensure that these acknowledgment(s) are timely submitted to the board.

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

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

**7. 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.

**8. Restrictions on Supervision and Oversight of Licensed Facilities**

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

**9. 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 \$7,592.50. Respondent shall make said payments as follows:

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.

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.

**10. 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



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

3 **11. Status of License**

4 Respondent shall, at all times while on probation, maintain an active, current Pharmacist  
5 License with the board, including any period during which suspension or probation is tolled.  
6 Failure to maintain an active, current Pharmacist License shall be considered a violation of  
7 probation.

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

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

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

21 Upon acceptance of the surrender, respondent shall relinquish Respondent's pocket and/or  
22 wall license, including any indicia of licensure not previously provided to the board within ten  
23 (10) days of notification by the board that the surrender is accepted if not already provided.  
24 Respondent may not reapply for any license from the board for three (3) years from the effective  
25 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
26 of the date the application for that license is submitted to the board, including any outstanding  
27 costs.

28 **13. Practice Requirement – Extension of Probation**

1 Except during periods of suspension, respondent shall, at all times while on probation, be  
2 employed as a Pharmacist in California for a minimum of 80 hours per calendar month. Any  
3 month during which this minimum is not met shall extend the period of probation by one month.  
4 During any such period of insufficient employment, respondent must nonetheless comply with all  
5 terms and conditions of probation, unless respondent receives a waiver in writing from the board  
6 or its designee.

7 If respondent does not practice as a Pharmacist in California for the minimum number of  
8 hours in any calendar month, for any reason (including vacation), respondent shall notify the  
9 board in writing within ten (10) days of the conclusion of that calendar month. This notification  
10 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the  
11 interruption or reduction in practice; and the anticipated date(s) on which respondent will resume  
12 practice at the required level. Respondent shall further notify the board in writing within ten (10)  
13 days following the next calendar month during which respondent practices as a Pharmacist in  
14 California for the minimum of hours. Any failure to timely provide such notification(s) shall be  
15 considered a violation of probation.

16 It is a violation of probation for respondent's probation to be extended pursuant to the  
17 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
18 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended  
19 probation period on its website.

#### 20 **14. Violation of Probation**

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

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

1 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
2 probation, or the preparation of an accusation or petition to revoke probation is requested from  
3 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of  
4 probation shall be automatically extended until the petition to revoke probation or accusation is  
5 heard and decided.

6 **15. Completion of Probation**

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

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

10 By no later than ten (10) days after the effective date of this decision, respondent shall have  
11 completed all of the following: contacted the Pharmacists Recovery Program (PRP) for  
12 evaluation; enrolled in the PRP; completed, signed, and returned the treatment contract as well as  
13 any addendums required or suggested by the PRP; successfully completed registration for any  
14 drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and  
15 begun compliance with the drug or alcohol testing protocol(s). Respondent shall successfully  
16 participate in the PRP and complete the treatment contract and any addendums required or  
17 suggested by the PRP. The costs for PRP participation shall be borne by the respondent.

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

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

25 Any of the following shall result in the automatic suspension of practice by respondent and  
26 shall be considered a violation of probation:  
27  
28

1 Failure to contact, complete enrollment, and execute and return the treatment contract with  
2 the PRP, including any addendum(s), within ten (10) days of the effective date of the decision as  
3 directed by the PRP;

4 Failure to complete registration for any drug or alcohol testing mandated by the treatment  
5 contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10)  
6 days of the effective date of the decision as directed by the PRP;

7 Failure to comply with testing protocols regarding daily check-in and/or failure to complete  
8 a mandated test as directed by the PRP;

9 Any report from the PRP of material non-compliance with the terms and conditions of the  
10 treatment contract and/or any addendum(s); or

11 Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

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

13 Probation shall be automatically extended until respondent successfully completes the PRP.

14 The board will provide notice of any such suspension or extension of probation.

15 During any suspension, respondent shall not enter any pharmacy area or any portion of the  
16 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug  
17 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or  
18 any area where dangerous drugs and/or dangerous devices or controlled substances are  
19 maintained. Respondent shall not practice as a Pharmacist nor do any act involving drug  
20 selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor  
21 shall respondent manage, administer, or be a consultant to any licensee of the board, or have  
22 access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs  
23 and/or dangerous devices or controlled substances.

24 During any suspension, respondent shall not engage in any activity that requires the  
25 professional judgment of and/or licensure as a Pharmacist. Respondent shall not direct or control  
26 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or  
27 retailing of dangerous drugs and/or dangerous devices or controlled substances.

1 Failure to comply with any requirement or deadline stated by this term shall be considered a  
2 violation of probation.

3 **17. Drug and Alcohol Testing**

4 Respondent, at Resondent's own expense, shall participate in testing as directed by the  
5 board or its designee for the detection of alcohol, controlled substances, and dangerous drugs  
6 and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood),  
7 breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its  
8 designee. All testing must be pursuant to an observed testing protocol, unless respondent is  
9 informed otherwise in writing by the board or its designee. Respondent may be required to  
10 participate in testing for the entire probation period and frequency of testing will be determined  
11 by the board or its designee.

12 By no later than thirty (30) days after the effective date of this decision, respondent shall  
13 have completed all of the following tasks: enrolled and registered with an approved drug and  
14 alcohol testing vendor; provided that vendor with any documentation, and any information  
15 necessary for payment by respondent; commenced testing protocols, including all required  
16 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,  
17 respondent shall fully cooperate with the testing vendor, and with the board or its designee, with  
18 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to  
19 cooperate timely shall be considered a violation of probation.

20 Respondent may be required to test on any day, including weekends and holidays.  
21 Respondent is required to make daily contact with the testing vendor to determine if a test is  
22 required, and if a test is required must submit to testing on the same day.

23 Prior to any vacation or other period of absence from the area where the approved testing  
24 vendor provides services, respondent shall seek and receive approval from the board or its  
25 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,  
26 respondent shall enroll and register with the approved alternate drug testing vendor, provide to  
27 that alternate vendor any documentation required by the vendor, including any necessary payment  
28 by respondent. During the period of absence of the area, respondent shall commence testing

1 protocols with the alternate vendor, including required daily contacts with the testing vendor to  
2 determine if testing is required, and required testing. Any failure to timely seek or receive  
3 approval from the board or its designee, or to timely enroll and register with, timely commence  
4 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be  
5 considered a violation of probation.

6 Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its  
7 designee may require respondent to timely provide documentation from a licensed practitioner  
8 authorized to prescribe the detected substance demonstrating that the substance was administered  
9 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such  
10 documentation shall be provided by respondent within ten (10) days of being requested.

11 Any of the following shall be considered a violation of probation and shall result in  
12 respondent being immediately suspended from practice as a Pharmacist until notified by the board  
13 in writing that she may resume practice: failure to timely complete all of the steps required for  
14 enrollment/registration with the drug testing vendor, including making arrangements for payment;  
15 failure to timely commence drug testing protocols; failure to contact the drug testing vendor as  
16 required to determine testing date(s); failure to test as required; failure to timely supply  
17 documentation demonstrating that a detected substance was taken pursuant to a legitimate  
18 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or  
19 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the  
20 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In  
21 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a  
22 controlled substance or dangerous drug absent documentation that the detected substance was  
23 taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee  
24 shall inform respondent of the suspension and inform her to immediately leave work, and shall  
25 notify respondent's employer(s) and work site monitor(s) of the suspension.

26 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
27 the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal drug  
28 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or

1 any area where dangerous drugs and/or dangerous devices or controlled substances are  
2 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,  
3 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall  
4 respondent manage, administer, or be a consultant to any licensee of the board, or have access to  
5 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or  
6 dangerous devices and controlled substances.

7 During any such suspension, respondent shall not engage in any activity that requires the  
8 professional judgment of and/or licensure as a Pharmacist. Respondent shall not direct or control  
9 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or  
10 retailing of dangerous drugs and/or dangerous devices.

11 Failure to comply with any such suspension shall be considered a violation of probation.  
12 Failure to comply with any requirement or deadline stated by this term shall be considered a  
13 violation of probation.

#### 14 **18. Notification of Departure**

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

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

20 Respondent shall completely abstain from the possession or use of alcohol, controlled  
21 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated  
22 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a  
23 necessary part of treatment. Respondent shall ensure that she is not in the same physical location  
24 as individuals who are using illicit substances even if respondent is not personally ingesting the  
25 drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled  
26 substances, or their associated paraphernalia for which a legitimate prescription has not been  
27 issued as a necessary part of treatment, or any physical proximity to persons using illicit  
28 substances, shall be considered a violation of probation.

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

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

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



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

11 During any suspension, respondent shall not engage in any activity that requires the  
12 professional judgment and/or licensure as a Pharmacist. Respondent shall not direct or control  
13 any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or  
14 retailing of dangerous drugs and/or dangerous devices or controlled substances.

15 Failure to comply with any requirement or deadline stated by this term shall be considered a  
16 violation of probation.

#### 17 **21. Facilitated Group Recovery and/or Support Meetings**

18 Within thirty (30) days of the effective date of this decision, respondent shall begin regular  
19 attendance at a group recovery and/or support meeting that is run by a trained facilitator approved  
20 in advance by the board or its designee. The required frequency of group meeting attendance  
21 shall be determined by the board or its designee. Respondent shall continue regular attendance as  
22 directed at an approved facilitated group meeting until the board or its designee advises the  
23 respondent in writing that she may cease regular attendance. Respondent shall provide signed  
24 and dated documentation of attendance as required with each quarterly report. Failure to attend as  
25 required or to submit documentation of attendance shall be considered a violation of probation.

26 If respondent is required to participate in the PRP, compliance with this term can be  
27 demonstrated through that program. Where respondent is enrolled in the PRP, participation as  
28 required in a facilitated group meeting approved by the PRP shall be sufficient for satisfaction of

1 this requirement. Any deviation from participation requirements for the PRP-approved group  
2 shall be considered a violation of probation.

3 **22. Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

4 Within thirty (30) days of the effective date of this decision, respondent shall begin regular  
5 attendance at a recognized and established substance abuse recovery support group in California  
6 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board  
7 or its designee. Respondent must attend the number of group meetings per week or month  
8 directed by the board or its designee, which shall typically be at least one per week. Respondent  
9 shall continue regular attendance and submit signed and dated documentation confirming  
10 attendance with each quarterly report for the duration of probation. Failure to attend or submit  
11 documentation thereof shall be considered a violation of probation.

12 Where respondent is enrolled in the PRP, participation as required in a recovery group  
13 meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any  
14 deviation from participation requirements for the PRP-approved group shall be considered a  
15 violation of probation.

16 **23. Work Site Monitor**

17 Within ten (10) days of the effective date of this decision, respondent shall identify a work  
18 site monitor, for prior approval by the board or its designee, who shall be responsible for  
19 supervising respondent during working hours. Respondent shall be responsible for ensuring that  
20 the work site monitor reports in writing to the board monthly or on another schedule as directed  
21 by the board or its designee. Should the designated work site monitor suspect at any time during  
22 the probationary period that respondent has abused alcohol or drugs, he or she shall notify the  
23 board immediately.

24 In the event of suspected abuse, the monitor shall make at least oral notification within one  
25 (1) business day of the occurrence, and shall be followed by written notification within two (2)  
26 business days of the occurrence. If, for any reason, including change of employment, respondent  
27 is no longer able to be monitored by the approved work site monitor, within ten (10) days  
28 respondent shall designate a new work site monitor for approval by the board or its designee.

1 Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure  
2 monthly reports are submitted to the board by the monitor, shall be considered a violation of  
3 probation.

4 Within thirty (30) days of being approved by the board or its designee, the work site  
5 monitor shall sign an affirmation that he or she has reviewed the terms and conditions of  
6 respondent's disciplinary order and agrees to monitor respondent. The work site monitor shall at  
7 least:

- 8 1) Have regular face-to-face contact with respondent in the work environment, at least  
9 once per week or with greater frequency if required by the board or its designee;
- 10 2) Interview other staff in the office regarding respondent's behavior, if applicable; and
- 11 3) Review respondent's work attendance.

12 The written reports submitted to the board or its designee by the work site monitor shall  
13 include at least the following information: respondent's name and license number; the monitor's  
14 name, license number (if applicable) and work site location; the date(s) the monitor had face-to-  
15 face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on  
16 any changes in respondent's behavior or personal habits; notes on any indicators that may lead to  
17 substance abuse; and the work site monitor's signature.

18 Respondent shall complete the required consent forms and sign an agreement with the work  
19 site monitor and the board to allow the board to communicate with the work site monitor.

#### 20 **24. No Ownership or Management of Licensed Premises**

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

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**ACCEPTANCE**

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

DATED: \_\_\_\_\_  
DEBRA ANN MAGNESS  
*Respondent*

ACCEPTANCE

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

DATED:

8/24/23

Debra Ann Magness  
DEBRA ANN MAGNESS  
Respondent

**ENDORSEMENT**

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

DATED: \_\_\_\_\_

Respectfully submitted,

ROB BONTA  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General

CHRISTINE J. LEE  
Deputy Attorney General  
*Attorneys for Complainant*

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Magness Revised Stipulated Settlement.docx

**ENDORSEMENT**

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

DATED: 8/29/2023

Respectfully submitted,

ROB BONTA  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General



CHRISTINE J. LEE  
Deputy Attorney General  
*Attorneys for Complainant*

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Magness Revised Stipulated Settlement.docx

**Exhibit A**

**Accusation No. 7363**



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Deputy Attorney General  
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*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. 7363

14 **DEBRA ANN MAGNESS**  
15 **623 Shadow Creek Drive,**  
**San Jose, CA 95136**

**ACCUSATION**

16 **Pharmacist License No. RPH 48381**

17 Respondent.

18  
19 **PARTIES**

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

22 2. On or about September 15, 1995, the Board issued Pharmacist License Number RPH  
23 48381 to Debra Ann Magness (Respondent). The Pharmacist License expired on November 30,  
24 2022, and has not been renewed. On September 30, 2022, in *People of the State of California v*  
25 *Debra Ann Magness*, San Benito County Superior Court case numbers CR-22-00714 and CR-22-  
26 00926, the court granted the Board's motion under Penal Code section 23 for an order restricting  
27 Respondent's practice as a pharmacist as a condition of pre-trial release. As a result of that order,  
28 Respondent is prohibited from engaging, either directly or indirectly, in any activity for which a

1 pharmacist license is required. The condition remains in effect until final disposition of the  
2 criminal cases or further order of the court.

### 3 **JURISDICTION**

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

7 4. Section 492 of the Code states:

8 Notwithstanding any other provision of law, successful completion of any  
9 diversion program under the Penal Code, or successful completion of an alcohol and  
10 drug problem assessment program under Article 5 (commencing with section  
11 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any  
12 agency established under Division 2 ([Healing Arts] commencing with Section 500)  
of this code, or any initiative act referred to in that division, from taking disciplinary  
action against a licensee or from denying a license for professional misconduct,  
notwithstanding that evidence of that misconduct may be recorded in a record  
pertaining to an arrest.

13 This section shall not be construed to apply to any drug diversion program operated  
14 by any agency established under Division 2 (commencing with Section 500) of this code, or  
any initiative act referred to in that division.

15 5. Code section 4011 states, in pertinent part, that the Board shall administer and  
16 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled  
17 Substances Act [Health & Safety Code, § 11000 et seq.].

18 6. Code section 4300 states, in pertinent part, that every license issued may be  
19 suspended or revoked.

20 7. Code section 4300.1 states:

21 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
22 by operation of law or by order or decision of the board or a court of law, the  
23 placement of a license on a retired status, or the voluntary surrender of a license by a  
24 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.

25 8. Code section 4307 states in relevant part:

26 (a) Any person who has been denied a license or whose license has been revoked or  
27 is under suspension, or who has failed to renew his or her license while it was under  
28 suspension, or who has been a manager, administrator, owner, member, officer, director,  
associate, partner, or any other person with management or control of any partnership,  
corporation, trust, firm, or association whose application for a license has been denied or

1 revoked, is under suspension or has been placed on probation, and while acting as the  
2 manager, administrator, owner, member, officer, director, associate, partner, or any other  
3 person with management or control had knowledge of or knowingly participated in any  
4 conduct for which the license was denied, revoked, suspended, or placed on probation, shall  
5 be prohibited from serving as a manager, administrator, owner, member, officer, director,  
6 associate, partner, or in any other position with management or control of a licensee as  
7 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.

(b) Manager, administrator, owner, member, officer, director, associate, partner, or  
any other person with management or control of a license as used in this section and Section  
4308, may refer to a pharmacist or to any other person who serves in such capacity in or for  
a licensee.

...

### **STATUTORY PROVISIONS**

9. 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:

...

(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.

...

(k) The conviction of more than one misdemeanor or any felony involving the  
use, consumption, or self-administration of any dangerous drug or alcoholic beverage,  
or any combination of those substances.

(l) The conviction of a crime substantially related to the qualifications,  
functions, and duties of a licensee under this chapter. The record of conviction of a  
violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
States Code regulating controlled substances or of a violation of the statutes of this  
state regulating controlled substances or dangerous drugs shall be conclusive  
evidence of unprofessional conduct. In all other cases, the record of conviction shall  
be conclusive evidence only of the fact that the conviction occurred. The board may  
inquire into the circumstances surrounding the commission of the crime, in order to  
fix the degree of discipline or, in the case of a conviction not involving controlled  
substances or dangerous drugs, to determine if the conviction is of an offense  
substantially related to the qualifications, functions, and duties of a licensee under this  
chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
contendere is deemed to be a conviction within the meaning of this provision. The

board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...

### **REGULATORY PROVISIONS**

10. California Code of Regulations, title 16, section 1770, subdivision (a) states:

For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the practice, profession, or occupation that may be performed under the license type sought or held if to a substantial degree it evidences present or potential unfitness of an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

### **COST RECOVERY**

11. Section 125.3 of the Code provides, in pertinent part, that the 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

### **FACTUAL ALLEGATIONS**

12. On November 4, 2022, Respondent was convicted of seven misdemeanors (battery on a spouse, resisting a peace officer, battery on a peace officer, injuring a spouse, cruelty to a child by inflicting injury, DUI, and violating a protective order), in three criminal proceedings before the San Benito County Superior Court, case numbers CR22-00714, CR22-00926, and CR22-01402. She was sentenced to 18 months in a diversion program, and ordered to comply with the State's Pharmacist Recovery Program administered by Maximus, obey all laws, and continue therapy. The circumstances surrounding the convictions are as follows:

#### **April 22, 2022 Arrest/San Benito County Superior Court Case No. CR22-00714**

13. At approximately 9:15 p.m., on April 22, 2022, Hollister Police Department

1 dispatched an officer in response to the report of a family disturbance at Respondent's home  
2 address. When the officer arrived, he encountered Respondent's teenage daughter (D) who  
3 reported that Respondent recently relapsed on alcohol, was "heavily intoxicated," and was  
4 attempting to locate keys to a vehicle. D told the officer that Respondent had been physically  
5 combative with D earlier that day when Respondent had been intoxicated.

6 14. During the officer's visit to Respondent's home, and after Respondent's husband (H)  
7 arrived at the home, Respondent yelled profanities, was physically combative toward H and acted  
8 belligerently. Another officer arrived at the home to assist. Respondent resisted the officers'  
9 attempts to restrain her, kicked them several times, and said she wanted to shoot herself with their  
10 gun.

11 15. The officers arrested Respondent and transported her to a hospital to be placed on a  
12 72-hour hold. They later were dispatched to the hospital because she escaped. They found and  
13 detained her, then returned her to the hospital.

14 16. On May 27, 2022, the San Benito County District Attorney charged Respondent with  
15 violating: (1) Penal Code section 243, subdivision (e)(1) – battery on spouse; (2) Penal Code  
16 section 148, subdivision (a)(1) – obstructing or resisting a peace officer; and (3) Penal code  
17 section 243, subdivision (b) – battery on a peace officer.

18 17. On June 28, 2022, Respondent entered pleas of not guilty to all charges. A pretrial  
19 hearing was set, and a peaceful contact order was issued instructing Respondent to refrain from  
20 consuming alcohol, and stay away from places where alcohol is the chief item for sale.

21 **July 12, 2022 Arrest/San Benito County Superior Court Case No. CR22-00926**

22 18. At approximate 7:49 p.m., on July 12, 2022, Hollister police responded to  
23 Respondent's residence, and spoke with Respondent's husband (H) who reported that, earlier in  
24 the day, he found her purchasing alcohol at a Rite Aid in violation of a prior court order. On their  
25 way home, Respondent was physically combative with H.

26 19. After speaking with H, whose right eye was bruised and right forearm was red with a  
27 small spot that appeared to be blood, the officers found Respondent lying on her bed, and smelled  
28 a strong odor of alcohol. Respondent sat up and provided a statement, but the officer found it

1 difficult to understand because of Respondent's slurred speech and inability to maintain focus on  
2 the issue. After Respondent admitted to biting H, she was arrested and transported her to jail for  
3 booking.

4 20. On July 22, 2022, the San Benito County District Attorney charged Respondent with  
5 violation of: (1) Penal Code section 273.5, subdivision (a) – injuring a spouse, cohabitant, fiancé,  
6 boyfriend, girlfriend or child's parent; and (2) Penal Code section 273a, subdivision (b) – cruelty  
7 to child by inflicting injury.

8 **August 23, 2022 arrest/San Benito County Superior Court Case No. CR22-01402**

9 21. At approximately 3:07 p.m. on August 23, 2022, Hollister Police Department  
10 dispatched officers to Respondent's residence. H reported that he believed Respondent had been  
11 drinking and that she drove her car away from the house. H also provided a copy of a peaceful  
12 contact domestic violence restraining order that required Respondent to refrain from using  
13 alcohol.

14 22. Respondent admitted that she is an alcoholic, but denied having consumed alcohol  
15 that day. The officer advised Respondent that he could smell alcohol on her person. The officer  
16 advised Respondent that he was investigating her for driving under the influence of alcohol, and  
17 initiated a series of Field Sobriety Tests. On questioning, Respondent admitted that she drove the  
18 car, and stated that she had one shot of vodka after returning home when the car stalled.  
19 Respondent had red, watery eyes, and was unable to maintain smooth pursuit in both eyes. She  
20 demonstrated sustained nystagmus at maximum deviation in both eyes, that started before 45  
21 degree deviation in both eyes. Respondent had difficulty following instructions and completing  
22 the Walk and Turn portion of the Field Sobriety Tests.

23 23. While waiting for another officer to deliver an EPAS machine (i.e., a breathalyzer  
24 machine), the officer placed Respondent under arrest for violation of Penal Code section 273.6,  
25 subdivision (a) - domestic violence criminal restraining order. The officer then transported  
26 Respondent around the corner to obtain information from her vehicle.

27 24. After the EPAS machine arrived, Respondent consented to a Preliminary Alcohol  
28 Screening test that reported a blood alcohol content (BAC) of 0.09%. Respondent was placed

1 under arrest for violation of Vehicle Code section 23152, subdivision (b) – driving under the  
2 influence of alcohol with a BAC of 0.08% or greater. After Respondent was arrested, she  
3 consented to two consecutive breath tests that reported a BAC of 0.08%.

4 25. Respondent was booked into county jail on charges of violation of Vehicle Code  
5 section 23152, subdivision (b) – driving under the influence of alcohol with a BAC of 0.08% or  
6 greater; and Penal Code section 273.6, subdivision (a) – violation of a protective order.

7 26. On October 5, 2022, the San Benito County District Attorney charged Respondent  
8 with violating: (1) Vehicle Code section 23152, subdivision (a) – driving under the influence of  
9 an alcoholic beverage; and (2) Penal Code section 273.6, subdivision (a) – disobeying domestic  
10 relations court order.

11 **FIRST CAUSE FOR DISCIPLINE**  
12 **(Dangerous Administration and Use of Alcohol)**

13 27. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
14 Code section 4301, subdivision (h), in that she engaged in the administration and use of alcoholic  
15 beverages in a manner that was dangerous or injurious to herself or another person or to the  
16 public. The facts are more fully set forth in paragraphs 12 through 26, above.

17 **SECOND CAUSE FOR DISCIPLINE**  
18 **(Substantially Related Criminal Conviction)**

19 28. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
20 Code section 4301, subdivision (l), in that she was convicted of seven misdemeanors that are  
21 substantially related to the qualifications, functions, and duties of a pharmacist as defined by  
22 Regulations section 1770, subdivision (a). The facts are more fully set forth in paragraphs 12  
23 through 26, above.

24 **THIRD CAUSE FOR DISCIPLINE**  
25 **(Conviction of More Than One Misdemeanor)**

26 29. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
27 Code section 4301, subdivision (k), in that she engaged in unprofessional conduct when she was  
28 convicted of seven misdemeanors involving the use and consumption of alcoholic beverages.

1 The facts are more fully set forth in paragraphs 12 through 26, above.

2 **FOURTH CAUSE FOR DISCIPLINE**  
3 **(Unprofessional Conduct)**

4 30. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
5 Code section 4301, as more fully set forth in paragraphs 12 through 26, above.

6 **OTHER MATTERS**

7 31. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
8 Number RPH 48381 issued to Respondent Debra Ann Magness, then any person who has been a  
9 manager, administrator, owner, member, officer, director, associate, partner, or any other person  
10 with management or control of any partnership, corporation, trust, firm, or association which  
11 received this discipline or denial, and while acting as the manager, administrator, owner, member,  
12 officer, director, associate, partner, or any other person with management or control, had  
13 knowledge of or knowingly participated in any conduct leading to discipline or denial, shall be  
14 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
15 or partner of a licensee for five years if Pharmacist License Number RPH 48381 is placed on  
16 probation or until Pharmacist License Number RPH 48381 is reinstated if it is revoked.

17 **DISCIPLINE CONSIDERATIONS**

18 32. To determine the degree of discipline, if any, to be imposed on Respondent,  
19 Complainant alleges that on or about December 5, 2019, in a prior action, the Board of Pharmacy  
20 issued a Letter of Admonishment in case number CI 2019 86266 for violation of Business and  
21 Professions Code sections 4315 and 4076, subdivision (a)(4) when she dispensed medication to a  
22 patient without the correct name of the prescriber. Respondent did not appeal the Letter of  
23 Admonishment, and it is now final.

24 33. To determine the degree of discipline, if any, to be imposed on Respondent,  
25 Complainant alleges that on or about December 24, 2019, in a prior action, the Board of  
26 Pharmacy issued Citation Number CI 2019 86551 for Respondent's failure to take action when a  
27 compounded drug preparation was discovered to be outside minimum standards for integrity,  
28 potency, quality, or labeled strength. Respondent was ordered to pay a fine of \$1,000.00. That



Citation is now final.

**PRAYER**

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

1. Revoking or suspending Pharmacist License Number RPH 48381, issued to Debra Ann Magness;
2. Prohibiting Respondent from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if an applicable license is placed on probation or until any license revoked or denied is issued or reinstated;
3. Ordering Debra Ann Magness 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,
4. Taking such other and further action as deemed necessary and proper.

DATED: 4/15/2023

Sodergren,  
Anne@DCA

Digitally signed by  
Sodergren, Anne@DCA  
Date: 2023.04.15 06:28:23  
-07'00'

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

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