



California State Board of Pharmacy
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Business, Consumer Services and Housing Agency
 Department of Consumer Affairs
RECEIVED Gavin Newsom, Governor



AUG 21 2025

California State
 Board of Pharmacy

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACY TECHNICIAN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES:

Name of Licensee: <u>Nori Bates</u>	Case No. <u>7653</u>
Address of Record: <u>1192 Silver Willow Lane</u> <u>Nevada City, CA 95959</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 7653, I hereby request to surrender my pharmacy technician license, License No. 21147. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

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

Dated
8-14-25
Sent by mail

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

Nori Bates
Applicant's Signature

8-14-25
Date

Nori Bates
Applicant's Printed Name

21147
Applicant's License Number

Executive Officer's Approval

Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 518-3100, 2720 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

NORI JEAN BATES, Respondent

Agency No. 7653

OAH No. 2024040294

DECISION AFTER REJECTION

Matthew S. Block, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on October 1, 2024, by videoconference from Sacramento, California.

Brent O. Jex, Deputy Attorney General, represented Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

Nori Jean Bates (respondent) appeared and represented herself.

Evidence was received, the record closed, and the matter submitted for decision on October 1, 2024.

The ALJ issued a Proposed Decision on October 23, 2024. On December 10, 2024, pursuant to section 11517 of the Government Code, the Board issued an Order

Rejecting the Proposed Decision. The Board ordered and subsequently received the transcripts and administrative record of the hearing, and thereafter issued an Order setting March 5, 2025, as the date for the submission of written argument with no new evidence allowed to be presented. Respondent timely filed written argument; no written argument was submitted on behalf of complainant.

The Board, having reviewed and considered the entire record, including the transcript and exhibits and written argument submitted by respondent, now issues this Decision After Rejection. As set forth herein, the Board agrees that cause for discipline exists, but has determined that certain modifications to the Proposed Decision are appropriate. Specifically, the Board finds that, when all the evidence is considered, a probation term of one year is sufficient to protect the public; that a further reduction in the cost award is warranted; and that certain modifications to the probation conditions are necessary for consistency with the Board's disciplinary guidelines and to ensure respondent is fit to perform the functions authorized by her license in a manner consistent with the public health, safety, and welfare.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 14, 1997, the Board issued respondent Pharmacy Technician Registration No. TCH 21147 (registration). The registration will expire on October 31, 2026, unless renewed.

2. On December 4, 2023, complainant, in her official capacity, signed and thereafter filed an Accusation against respondent. The Accusation alleges cause to

discipline respondent's registration for unprofessional conduct. More specifically, the Accusation alleges that respondent, while employed at the Grass Valley Women's Center (GVWC) in Grass Valley, California, accessed Patient 1's protected health information (PHI) and obtained her personal contact information without medical need or authorization.

3. On March 4, 2024, a Default Decision and Order revoking respondent's registration was issued by the Board. Respondent timely filed a motion to set aside the Default Decision and Order pursuant to Government Code section 11520, subdivision (c). On April 2, 2024, the Board issued an Order vacating the Default Decision. The matter was subsequently set for evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq., and the October 1, 2024 hearing followed.

Complainant's Evidence

4. The pharmacy profession is governed by various laws and regulations, including the federal Health Insurance Portability and Accountability Act (HIPAA). The purpose of these laws and regulations is to protect individuals' PHI and ensure that it is only accessed or shared for legitimate medical purposes. They prevent individuals from accessing individuals' PHI without authorization or medical need.

5. In or around October 2022, while respondent was employed as a referral coordinator at GVWC, she accessed Patient 1's PHI without authorization to obtain her contact information. Respondent was not assigned to Patient 1's care team and she did not have a business need to access Patient 1's PHI. Respondent then emailed Patient 1 from her GVWC email account. She also sent a series of text messages to Patient 1 and attempted to arrange a day for them to meet for lunch. Respondent told Patient 1 in the text messages that she felt they had a connection based on

conversations they had at GVWC. She also admitted not knowing if emailing Patient 1 was appropriate due to HIPAA.

6. Patient 1 initially responded favorably to respondent's text messages. She told respondent it was "okay" that she emailed her. She also suggested a day for them to meet for lunch and even sent respondent a photograph of her newborn child. However, a short while later, Patient 1 sent respondent the following text message:

Hi [respondent], it felt odd that I couldn't remember you because I remember everyone else at the office so I reached out to the office and confirmed we have not met. At this point, I'm concerned about meeting up and ask that you not text me anymore.

7. On November 10, 2022, respondent sent an email to Patient 1 from her personal email account. She explained that she met Patient 1 in person but that it was "very quick" and that she also had several phone conversations with her. She told Patient 1 she liked talking to her and reached out to get to know her better. She acknowledged Patient 1 said not to contact her. However, she told Patient 1 that she wanted to explain herself. Patient 1 did not respond to the email but reported it to GVWC. A GVWC physician encouraged Patient 1 to report the incident to the Board, which she did on November 10, 2022.

8. Jyoti Kaur has been a licensed pharmacist in California since 2012 and a Board Inspector for the last five years. Dr. Kaur was assigned to investigate the complaint against respondent and testified at hearing about her investigation.

9. Dr. Kaur spoke with respondent about Patient 1's complaint on January 26, 2023. Respondent told Dr. Kaur she no longer worked at GVWC and that she had

been “let go” for financial reasons. She acknowledged accessing Patient 1’s PHI to contact her because she felt she and Patient 1 “hit it off” but had never been formally introduced.

10. Respondent wrote Dr. Kaur a letter, dated January 28, 2023, admitting that contacting Patient 1 was a “bad” decision and apologizing for doing so. She explained, in part:

During a shift I will state that I reached out to her with my employee email account and I did say hello. I realized at that moment I broke a HIPAA law. I reached back out immediately and apologized. She did say that’s ok, [Patient 1] and I engaged [*sic*] pleasantries and talked about her new born [*sic*]. She was very kind to me and I was under the impression with our exchange on work email that we were building a foundation of friendship.

Respondent’s Evidence

11. Respondent testified at hearing. She is 49 years old. She is presently employed as a pharmacy technician at CVS, though she has not worked since June 2023 for medical reasons. She has no dependents, and her gross monthly income is approximately \$4,500.

12. Respondent admits the allegations in the Accusation are true. She accessed Patient 1’s PHI because she enjoyed speaking with Patient 1 and wanted to establish a friendship. She realized immediately after she did so that she violated HIPAA and acknowledges it was an incredibly poor decision. Respondent has been licensed for over 27 years and has no prior disciplinary record with the Board. She is

amenable to probation and will abide by any terms and conditions that the Board imposes upon her registration.

Analysis

13. Complainant bears the burden of proving the allegations in the Accusation by a preponderance of the evidence. Complainant has met her burden. It is undisputed that respondent accessed Patient 1's PHI. The text messages between respondent and Patient 1 were received in evidence at hearing. Respondent admits she made a very poor decision in using the PHI to contact Patient 1 for a personal reason. She also admits doing so violated Patient 1's privacy rights under HIPAA.

14. While respondent unquestionably exercised very poor judgment in accessing Patient 1's PHI for personal reasons, there is no indication that she acted dishonestly or with the intent to deceive Patient 1. She identified herself by name and gave Patient 1 her personal phone number. While contacting Patient 1 after she asked respondent not to was yet another very poor decision, respondent did so to identify herself and explain that she had met Patient 1 in person, albeit briefly. Thus, while the facts alleged in the Accusation have been proven by a preponderance of the evidence, complainant did not establish that respondent's behavior was dishonest or deceitful. Consequently, cause only exists to discipline respondent's license for unprofessional conduct based on her admitted HIPAA violation.

Appropriate Discipline

15. The Board has adopted disciplinary guidelines (guidelines) for consideration when determining the appropriate level of discipline for violations of the Pharmacy Law. (Bus. & Prof. Code, § 4000 et seq.; Cal. Code Regs., tit. 16, § 1760.)¹ The

¹ The Board notes that the Board's disciplinary guidelines were updated as of January 1, 2025. (See Cal. Code

guidelines categorize different violations into one of four categories and specify a recommended minimum and maximum discipline for each category. Respondent's alleged violations constitute "Category II" violations with a recommended discipline range from a minimum of revocation, stayed, with probation of three years, to a maximum of revocation.

16. Factors relevant to determining the appropriate level of discipline include: (1) actual or potential harm to the public; (2) actual or potential harm to any consumer; (3) prior disciplinary record; (4) prior warnings, including citations; (5) number and/or variety of current violations; (6) nature and severity of the acts or offenses under consideration; (7) evidence of aggravation, mitigation, or rehabilitation; (8) time passed since the acts or offenses; and (9) whether the conduct was intentional.

17. In this case, respondent improperly accessed Patient 1's PHI for personal reasons. She exercised very poor judgment in doing so. However, there was no evidence presented that Patient 1 or any other person was actually harmed as a result. Respondent no longer has contact with Patient 1 or access to her PHI. After being licensed for over 30 years, respondent has no prior disciplinary record with the Board. The statutes relating to licensing of professions are designed to protect the public (*Arneson v. Fox* (1980) 28 Cal.3d 440, 451); not punish the individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) When all the evidence is considered, outright revocation of respondent's registration would be unduly punitive. Under the circumstances, the Board finds that a one-year probationary period is sufficient to protect the public health, safety, and welfare.

Regs., tit. 16, § 1760, effective January 1, 2025, identifying the current version of the guidelines as the document entitled "Disciplinary Guidelines" (Rev. 4/2024.) However, given that the Proposed Decision was issued, and rejected by the Board, prior to the effective date of the updated guidelines, the Board has determined it to be appropriate that the previous version of the guidelines (Rev. 2/2017) be applied in this Decision After Rejection.

Costs

18. Complainant requested that respondent be ordered to reimburse the Board for the reasonable costs of investigation and enforcement of this matter in the total amount of \$6,916.75. In support of this amount, complainant submitted: (1) a Certification of Prosecution Costs: Declaration of Brent O. Jex dated September 23, 2024, with an attached billing summary (AG Certification), which states the Attorney General's Office billed the Board \$4,999 for time spent on this matter (AG Costs); and (2) a Certification of Investigative Costs: Declarations of Jyoti Kaur and Moneet Kaur (Investigative Declarations), and a Certification of Costs signed by complainant, which indicate 13.75 hours of investigative costs at the rate of \$121 per hour, and 2 hours of supervising investigative costs at the rate of \$127 per hour, for a total of \$1,917.75 (Investigation Costs).

19. California Code of Regulations, title 1, section 1042 (section 1042), sets forth the requirements that an agency must comply with to recover its costs. Section 1042 states that a declaration regarding services provided by a regular agency employee must include "the general tasks performed, the time spent on each task, and the method of calculating the cost."

20. The AG Certification describes the tasks performed, the amount of time billed, and the billing rate by each professional to establish the AG Costs. The Investigative Declarations and Certification of Costs signed by complainant describe the tasks performed, the amount of time billed, and the billing rate by each professional to establish the Investigation Costs. The ALJ found that the AG Declaration, Investigative Declarations, and Certification of Costs signed by complainant satisfy the requirements set forth in section 1042. Complainant's request for costs is further addressed in the Legal Conclusions below.

LEGAL CONCLUSIONS

1. "Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 4001.1.)

Burden and Standard of Proof

2. Absent a statute to the contrary, the burden of proof in administrative disciplinary proceedings rests upon the party making the charges. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113; Evid. Code, § 115.) Thus, complainant bears the burden of proof.

3. In determining the proper standard of proof to apply in license disciplinary proceedings, courts have drawn a distinction between professional licenses and nonprofessional or occupational licenses. In proceedings involving a professional license, the standard of proof is clear and convincing evidence, while in disciplinary proceedings involving a nonprofessional or occupational license, the standard of proof is preponderance of the evidence. (*Lone Star Sec. & Video, Inc. v. Bur. Of Security and Investigative Services* (2012) 209 Cal.App.4th 445, 453.)

4. The Board may issue a pharmacy technician registration to a high school graduate who has taken 240 hours of relevant training. (Bus. & Prof. Code, § 4202, subd. (a)(2); Cal. Code Regs., tit. 16, § 1793.6, subd. (c).) Therefore, a pharmacy technician registration is more akin to a nonprofessional or occupational license because pharmacy technicians are not required to satisfy extensive educational,

training, and testing requirements like those required of pharmacists. Thus, the preponderance of the evidence standard of proof applies here. The term preponderance of the evidence means "more likely than not" (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1387), or "evidence that has more convincing force than that opposed to it." (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

5. Pursuant to Business and Professions Code section 4301, the Board may discipline a licensee for unprofessional conduct, which includes, but is not limited to:

[¶] . . . [¶]

(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.

[¶] . . . [¶]

(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.

[¶] . . . [¶]

Causes for Discipline

6. Based on the Factual Findings and Legal Conclusions as a whole, the ALJ found, and the Board agrees, that complainant established by a preponderance of the evidence that respondent violated Patient 1's right to medical privacy as set forth in HIPAA. Consequently, cause exists to discipline respondent's license for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivision (o).

7. Based on the Factual Findings and Legal Conclusions as a whole, the ALJ found, and the Board agrees, that complainant did not establish by a preponderance of the evidence that respondent committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption. Consequently, cause does not exist to discipline respondent's license for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivision (f).

Costs

8. Business and Professions Code section 125.3 provides that a licensee found to have violated a licensing statute may be ordered to pay the reasonable costs of the investigation and prosecution of the case. Complainant here incurred a total of \$6,916.75 in enforcement costs. The ALJ determined that the requested enforcement costs of \$6,916.75 are reasonable given the issues in the case.

9. In *Zuckerman v. Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to determine whether the costs should be assessed in the particular circumstances of each case. Factors to be considered include whether charges against the licensee were dismissed or reduced at hearing, the licensee's subjective good faith belief in the merits of their respective position, whether there were any colorable challenges to the proposed discipline, ability to pay,

and whether the scope of the investigation was appropriate in light of the alleged misconduct.

10. In this case, the ALJ found that the scope of the investigation was appropriate in light of the alleged misconduct. Respondent freely acknowledged wrongdoing in her communications with the Board and in her testimony at hearing. However, complainant only proved one of the two alleged causes for discipline. Under these circumstances, the ALJ ordered reduced costs in the amount of \$4,000. Upon review, and in light of respondent's assertion in written argument that the imposition of a \$4,000 cost award would be a hardship for her, the Board has determined that a further reduction in the cost award is warranted. Accordingly, reduced costs in the amount of \$1,000 will be ordered.

ORDER

Pharmacy Technician Registration No. TCH 21147 issued to respondent Nori Jean Bates is REVOKED. However, the revocation is STAYED, and respondent is placed on probation for one year upon 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 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 substance laws

- a plea of guilty, 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 proceeding, 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, or failure to appear for two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. **Cooperate with Board Staff**

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

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

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 7653 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 10 days of undertaking any new employment, respondent shall report to the Board in writing the name, physical address, and mailing address of each of her employer(s), and the name(s) and telephone number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-charge, responsible manager,

or other compliance supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior employment. Respondent shall sign and return to the Board a written consent authorizing the Board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the Board or its designee, concerning respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of her employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7653, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that he or she has read the decision in case number 7653, and the terms and conditions imposed thereby.

If respondent works for or is employed by or through an employment service, respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board of the decision in case number 7653, and the terms and conditions imposed thereby in advance of respondent commencing work at such

licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 7653, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or failure to cause the identified person(s) with that/those employer(s) to submit timely written acknowledgments to the Board 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 registration 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 \$1,000.

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 registration with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current pharmacy technician registration shall be considered a violation of probation.

If respondent's pharmacy technician registration expires or is cancelled by operation of law or otherwise at any time during the period of probation, including

any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's pharmacy technician registration shall be subject to all terms and conditions of this probation not previously satisfied.

10. License Surrender While on Probation/Suspension

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

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

11. Certification Prior to Resuming Work

Respondent shall maintain an active, current certification as defined by Business and Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall submit proof of re-certification or renewal of certification to the

Board within 10 days of receipt. Failure to maintain active, current certification or to timely submit proof of same shall be considered a violation of probation.

12. Practice Requirement – Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 24 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

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

It is a violation of probation for respondent's probation to be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months. The Board or its designee may post a notice of the extended probation period on its website.

13. Violation of Probation

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

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

14. Completion of Probation

Upon written notice by the Board or its designee indicating successful completion of probation, respondent's pharmacy technician registration will be fully restored.

15. Clinical Diagnostic Evaluation

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter if required by the Board or its designee, respondent shall undergo, at her own expense, clinical diagnostic evaluation(s) by a practitioner selected or approved

prior to the evaluation by the Board or its designee. The approved evaluator shall be provided with a copy of the Board's accusation and decision. Respondent shall sign a release authorizing the evaluator to furnish the Board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacy technician with safety to the public. If the evaluator recommends restrictions or conditions on respondent's practice, including but not limited to other terms and conditions listed in these guidelines (e.g., required psychotherapy, inpatient treatment, prescription coordination and monitoring, restricted practice), the Board or its designee may by written notice to respondent adopt any such restrictions or conditions as additional probation terms and conditions, violation of which shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

If at any time the approved evaluator or therapist determines that respondent is unable to practice safely or independently, the licensed mental health practitioner shall notify the Board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the Board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the Board or its designee that practice may resume.

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

This Decision shall become effective at 5:00 p.m. on June 4, 2025.

It is so ORDERED on May 5, 2025.

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 written in a cursive style with a large initial "S" and "O".

Seung W. Oh, Pharm.D.
Board President

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Agency No. 7653

OAH No. 2024040294

ORDER SETTING DATE FOR SUBMISSION OF WRITTEN ARGUMENT

The transcripts (administrative record) of the hearing in the above-entitled matter having now become available, the parties are hereby notified of the opportunity to submit written argument in accordance with the Order Rejecting Proposed Decision dated September 19, 2024. The California State Board of Pharmacy will decide the case upon the record, including the transcript(s) of the hearing, and upon such written argument as the parties may wish to submit. No new evidence may be submitted.

Written argument shall be filed with the Board of Pharmacy, Attn. Lupe Baltazar, 2720 Gateway Oaks Drive, Suite 100, Sacramento, California, 95833, or susan.cappello@dca.ca.gov on or before **March 5, 2025**.

It is so ORDERED on February 3, 2025.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

NORI JEAN BATES, Respondent

Agency No. 7653

OAH No. 2024040294

ORDER REJECTING PROPOSED DECISION

Pursuant to section 11517 of the Government Code, the Proposed Decision of the Administrative Law Judge in the above-entitled matter is rejected. The California State Board of Pharmacy (hereinafter "board") will decide the case upon the record, including the transcript(s) of the hearing, and upon such written argument as the parties may wish to submit. No new evidence may be submitted.

The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

It is so ORDERED on December 10, 2024.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

NORI JEAN BATES, Respondent

Agency No. 7653

OAH No. 2024040294

PROPOSED DECISION

Matthew S. Block, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on October 1, 2024, by videoconference from Sacramento, California.

Brent O. Jex, Deputy Attorney General, represented Anne Sodergren (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

Nori Jean Bates (respondent) appeared and represented herself.

Evidence was received, the record closed, and the matter submitted for decision on October 1, 2024.

FACTUAL FINDINGS

Jurisdictional Matters

1. On January 14, 1997, the Board issued respondent Pharmacy Technician Registration No. TCH 21147 (registration). The registration will expire on October 31, 2024, unless renewed.

2. On December 4, 2023, complainant signed and thereafter filed an Accusation against respondent. The Accusation alleges cause to discipline respondent's registration for unprofessional conduct. More specifically, the Accusation alleges that respondent, while employed at the Grass Valley Women's Center (GVWC) in Grass Valley, California, accessed Patient 1's protected health information (PHI) and obtained her personal contact information without medical need or authorization.

3. Respondent timely filed a Notice of Defense to the Accusation. The matter was set for evidentiary hearing before an ALJ of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

Complainant's Evidence

4. The pharmacy profession is governed by various laws and regulations, including the Health Insurance Portability and Accountability Act (HIPAA). The purpose of these laws and regulations is to protect individuals' PHI and ensure that it is only accessed or shared for legitimate medical purposes. They prevent individuals from accessing individuals' PHI without authorization or medical need.

5. In or around October 2022, while respondent was employed as a referral coordinator at GVWC, she accessed Patient 1's PHI without authorization to obtain her contact information. Respondent was not assigned to Patient 1's care team and she did not have a business need to access Patient 1's PHI. Respondent then emailed Patient 1 from her GVWC email account. She also sent a series of text messages to Patient 1 and attempted to arrange a day for them to meet for lunch. Respondent told Patient 1 in the text messages that she felt they had a connection based on conversations they had at GVWC. She also admitted not knowing if emailing Patient 1 was appropriate due to HIPAA.

6. Patient 1 initially responded favorably to respondent's text messages. She told respondent it was "okay" that she emailed her. She also suggested a day for them to meet for lunch and even sent respondent a photograph of her newborn child. However, a short while later, Patient 1 sent respondent the following text message:

Hi [respondent], it felt odd that I couldn't remember you because I remember everyone else at the office so I reached out to the office and confirmed we have not met. At this point, I'm concerned about meeting up and ask that you not text me anymore.

7. On November 10, 2022, respondent sent an email to Patient 1 from her personal email account. She explained that she met Patient 1 in person but that it was "very quick" and that she also had several phone conversations with her. She told Patient 1 she liked talking to her and reached out to get to know her better. She acknowledged Patient 1 said not to contact her. However, she told Patient 1 that she wanted to explain herself. Patient 1 did not respond to the email but reported it to

GVWC. A GVWC physician encouraged Patient 1 to report the incident to the Board, which she did on November 10, 2022.

8. Jyoti Kaur has been a licensed pharmacist in California since 2012 and a Board Inspector for the last five years. Dr. Kaur was assigned to investigate the complaint against respondent and testified at hearing about her investigation.

9. Dr. Kaur spoke with respondent about Patient 1's complaint on January 26, 2023. Respondent told Dr. Kaur she no longer worked at GVWC and that she had been "let go" for financial reasons. She acknowledged accessing Patient 1's PHI to contact her because she felt she and Patient 1 "hit it off" but had never been formally introduced.

10. Respondent wrote Dr. Kaur a letter, dated January 28, 2023, admitting that contacting Patient 1 was a "bad" decision and apologizing for doing so. She explained, in part:

During a shift I will state that I reached out to her with my employee email account and I did say hello. I realized at that moment I broke a HIPAA law. I reached back out immediately and apologized. She did say that's ok, [Patient 1] and I engaged [s/c] pleasantries and talked about her new born [s/c]. She was very kind to me and I was under the impression with our exchange on work email that we were building a foundation of friendship.

Respondent's Evidence

11. Respondent testified at hearing. She is 49 years old. She is presently employed as a pharmacy technician at CVS, though she has not worked since June 2023 for medical reasons. She has no dependents, and her gross monthly income is approximately \$4,500.

12. Respondent admits the allegations in the Accusation are true. She accessed Patient 1's PHI because she enjoyed speaking with Patient 1 and wanted to establish a friendship. She realized immediately after she did so that she violated HIPAA and acknowledges it was an incredibly poor decision. Respondent has been licensed for over 27 years and has no prior disciplinary record with the Board. She is amenable to probation and will abide by any terms and conditions that the Board imposes upon her registration.

Analysis

13. Complainant bears the burden of proving the allegations in the Accusation by a preponderance of the evidence. Complainant has met her burden. It is undisputed that respondent accessed Patient 1's PHI. The text messages between respondent and Patient 1 were received in evidence at hearing. Respondent admits she made a very poor decision in using the PHI to contact Patient 1 for a personal reason. She also admits doing so violated Patient 1's privacy rights under HIPAA.

14. While respondent unquestionably exercised very poor judgment in accessing Patient 1's PHI for personal reasons, there is no indication that she acted dishonestly or with the intent to deceive Patient 1. She identified herself by name and gave Patient 1 her personal phone number. While contacting Patient 1 after she asked respondent not to was yet another very poor decision, respondent did so to identify

herself and explain that she had met Patient 1 in person, albeit briefly. Thus, while the facts alleged in the Accusation have been proven by a preponderance of the evidence, complainant did not establish that respondent's behavior was dishonest or deceitful. Consequently, cause only exists to discipline respondent's license for unprofessional conduct based on her admitted HIPAA violation.

Appropriate Discipline

15. The Board has adopted disciplinary guidelines (guidelines) for consideration when determining the appropriate level of discipline for violations of the Pharmacy Law. (Bus. & Prof. Code, § 4000 et seq.; Cal. Code Regs., tit. 16, § 1760.) The guidelines categorize different violations into one of four categories and specify a recommended minimum and maximum discipline for each category. Respondent's alleged violations constitute "Category II" violations with a recommended discipline range from a minimum of revocation, stayed, with probation of three years, to a maximum of revocation.

16. Factors relevant to determining the appropriate level of discipline include: (1) actual or potential harm to the public; (2) actual or potential harm to any consumer; (3) prior disciplinary record; (4) prior warnings, including citations; (5) number and/or variety of current violations; (6) nature and severity of the acts or offenses under consideration; (7) evidence of aggravation, mitigation, or rehabilitation; (8) time passed since the acts or offenses; and (9) whether the conduct was intentional.

17. In this case, respondent improperly accessed Patient 1's PHI for personal reasons. She exercised very poor judgment in doing so. However, there was no evidence presented that Patient 1 or any other person was actually harmed as a result. Respondent no longer has contact with Patient 1 or access to her PHI. After being

licensed for over 30 years, respondent has no prior disciplinary record with the Board. The statutes relating to licensing of professions are designed to protect the public (*Arneson v. Fox* (1980) 28 Cal.3d 440, 451); not punish the individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) When all the evidence is considered, outright revocation of respondent's registration would be unduly punitive. A three-year probationary period is sufficient to protect the public health, safety, and welfare.

Costs

18. Complainant requested that respondent be ordered to reimburse the Board for the reasonable costs of investigation and enforcement of this matter in the total amount of \$6,916.75. In support of this amount, complainant submitted: (1) a Certification of Prosecution Costs: Declaration of Brent O. Jex dated September 23, 2024, with an attached billing summary (AG Certification), which states the Attorney General's Office billed the Board \$4,999 for time spent on this matter (AG Costs); and (2) a Certification of Investigative Costs: Declarations of Jyoti Kaur and Moneet Kaur (Investigative Declarations), and a Certification of Costs signed by complainant, which indicate 13.75 hours of investigative costs at the rate of \$121 per hour, and 2 hours of supervising investigative costs at the rate of \$127 per hour, for a total of \$1,917.75 (Investigation Costs).

19. California Code of Regulations, title 1, section 1042 (section 1042), sets forth the requirements that an agency must comply with to recover its costs. Section 1042 states that a declaration regarding services provided by a regular agency employee must include "the general tasks performed, the time spent on each task, and the method of calculating the cost."

20. The AG Certification describes the tasks performed, the amount of time billed, and the billing rate by each professional to establish the AG Costs. The Investigative Declarations and Certification of Costs signed by complainant describe the tasks performed, the amount of time billed, and the billing rate by each professional to establish the Investigation Costs. The AG Declaration, Investigative Declarations, and Certification of Costs signed by complainant satisfy the requirements set forth in section 1042. Complainant's request for costs is further addressed in the Legal Conclusions below.

LEGAL CONCLUSIONS

1. "Protection of the public shall be the highest priority for the California State Board of Pharmacy in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount." (Bus. & Prof. Code, § 4001.1.)

Burden and Standard of Proof

2. Absent a statute to the contrary, the burden of proof in administrative disciplinary proceedings rests upon the party making the charges. (*Parker v. City of Fountain Valley* (1981) 127 Cal.App.3d 99, 113; Evid. Code, § 115.) Thus, complainant bears the burden of proof.

3. In determining the proper standard of proof to apply in license disciplinary proceedings, courts have drawn a distinction between professional licenses and nonprofessional or occupational licenses. In proceedings involving a professional license, the standard of proof is clear and convincing evidence, while in disciplinary

proceedings involving a nonprofessional or occupational license, the standard of proof is preponderance of the evidence. (*Lone Star Sec. & Video, Inc. v. Bur. Of Security and Investigative Services* (2012) 209 Cal.App.4th 445, 453.)

4. The Board may issue a pharmacy technician registration to a high school graduate who has taken 240 hours of relevant training. (Bus. & Prof. Code, § 4202, subd. (a)(2); Cal. Code Regs., tit. 16, § 1793.6, subd. (c).) Therefore, a pharmacy technician registration is more akin to a nonprofessional or occupational license because pharmacy technicians are not required to satisfy extensive educational, training, and testing requirements like those required of pharmacists. Thus, the preponderance of the evidence standard of proof applies here. The term preponderance of the evidence means “more likely than not” (*Sandoval v. Bank of Am.* (2002) 94 Cal.App.4th 1378, 1387), or “evidence that has more convincing force than that opposed to it.” (*People ex rel. Brown v. Tri-Union Seafoods, LLC* (2009) 171 Cal.App.4th 1549, 1567.)

5. Pursuant to Business and Professions Code section 4301, the Board may discipline a licensee for unprofessional conduct, which includes, but is not limited to:

[¶] . . . [¶]

(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.

[¶] . . . [¶]

(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.

[¶] . . . [¶]

Causes for Discipline

6. Based on the Factual Findings and Legal Conclusions as a whole, complainant established by a preponderance of the evidence that respondent violated Patient 1's right to medical privacy as set forth in HIPAA. Consequently, cause exists to discipline respondent's license for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivision (o).

7. Based on the Factual Findings and Legal Conclusions as a whole, complainant did not establish by a preponderance of the evidence that respondent committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption. Consequently, cause does not exist to discipline respondent's license for unprofessional conduct pursuant to Business and Professions Code section 4301, subdivision (f).

Costs

8. Business and Professions Code section 125.3 provides that a licensee found to have violated a licensing statute may be ordered to pay the reasonable costs of the investigation and prosecution of the case. Complainant here incurred a total of

\$6,916.75 in enforcement costs. The requested enforcement costs of \$6,916.75 are reasonable given the issues in the case.

9. In *Zuckerman v. Bd. of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to determine whether the costs should be assessed in the particular circumstances of each case. Factors to be considered include whether charges against the licensee were dismissed or reduced at hearing, the licensee's subjective good faith belief in the merits of their respective position, whether there were any colorable challenges to the proposed discipline, ability to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

10. In this case, the scope of the investigation was appropriate in light of the alleged misconduct. Respondent freely acknowledged wrongdoing in her communications with the Board and in her testimony at hearing. While it appears that respondent is able to pay the requested costs, complainant only proved one of the two alleged causes for discipline. Under these circumstances, reduced costs in the amount of \$4,000 will be ordered.

ORDER

Pharmacy Technician Registration No. TCH 21147 issued to respondent Nori Jean Bates is REVOKED. However, the revocation is STAYED, and respondent is hereby placed on probation for three years upon the following terms and conditions:

1. Obey All Laws

Respondent shall report any of the following occurrences to the Board, in writing, within 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 substance laws
- a plea of guilty, 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 proceeding, 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, or failure to appear for two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

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

5. Reporting of Employment and Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 7653 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

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

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of her employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7653, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's

responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that he or she has read the decision in case number 7653, and the terms and conditions imposed thereby.

If respondent works for or is employed by or through an employment service, respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board of the decision in case number 7653, and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 7653, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

Failure to timely notify present or prospective employer(s) or failure to cause the identified person(s) with that/those employer(s) to submit timely written acknowledgments to the Board 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 registration is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

6. Notification of Change in Name, Address, or Phone Number

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 \$4,000.

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.

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 registration with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current pharmacy technician registration shall be considered a violation of probation.

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

10. License Surrender While on Probation/Suspension

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

Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall license, including any indicia of licensure not previously provided to the Board within 10 days of notification by the Board that the surrender is accepted if not already provided. Respondent may not reapply for any license from the Board for

three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

11. Maintain Active, Current Certification

Respondent shall maintain an active, current certification as defined by Business and Professions Code section 4202, subdivision (a)(4), for the entire period of probation, and shall submit proof of re-certification or renewal of certification to the Board within 10 days of receipt. Failure to maintain active, current certification or to timely submit proof of same shall be considered a violation of probation.

12. Practice Requirement – Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of 24 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

If respondent does not practice as a pharmacy technician in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the Board in writing within 10 days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which respondent will resume practice at the required level. Respondent shall further notify the Board in writing within ten (10) days following the

next calendar month during which respondent practices as a pharmacy technician in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months. The Board or its designee may post a notice of the extended probation period on its website.

13. Violation of Probation

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

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

14. Completion of Probation

Upon written notice by the Board or its designee indicating successful completion of probation, respondent's pharmacy technician registration will be fully restored.

DATE: October 23, 2024

Matthew Block

MATTHEW S. BLOCK

Administrative Law Judge

Office of Administrative Hearings

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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:

Case No. 7653

13 **NORI JEAN BATES**
14 14541 Lake Wildwood Drive
Penn Valley, CA 95946

ACCUSATION

15 **Pharmacy Technician License No. TCH**
16 **21147**

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 January 14, 1997, the Board issued Pharmacy Technician License
23 Number TCH 21147 to Nori Jean Bates (Respondent). The Pharmacy Technician License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on October
25 31, 2024, unless renewed.

26 ///

27 ///

28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Code section 4011 provides that the Board shall administer and enforce both the
6 Pharmacy Law [Bus. & Prof. Code §§ 4000, *et seq.*] and the Uniform Controlled Substances Act
7 [Health & Safety Code §§ 11000, *et seq.*].

8 5. Code section 4300 states, in pertinent part:

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

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

12 (1) Suspending judgment.

13 (2) Placing him or her upon probation.

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

15 (4) Revoking his or her license.

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

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

21 6. Section 4300.1 of the Code states:

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

26 ///

27 ///

1 **STATUTORY PROVISIONS**

2 7. Section 4301 of the Code states:

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

5 ...

6 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
7 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.

8 ...

9 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
10 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
11 pharmacy, including regulations established by the board or any other state or
federal regulatory agency.

12

13 **COST RECOVERY**

14 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
15 administrative law judge to direct a licensee found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 **FACTUAL ALLEGATIONS**

21 9. On or about November 10, 2022, while employed at the Grass Valley Women’s
22 Center (GVWC) in the city of Grass Valley, Respondent accessed Patient 1’s protected health
23 information without Patient 1’s authorization and obtained Patient 1’s contact information.
24 Respondent was not assigned to care for Patient 1, she did not have a business need nor
25 authorization to access Patient 1’s electronic health record, and she was not part of Patient 1’s
26 care team.

27 10. Respondent then began sending Patient 1 a series of text messages purporting to be
28 someone Patient 1 knew from GVWC. After Patient 1 discovered Respondent’s true identity,

1 Patient 1 asked Respondent to stop contacting her. Despite this request, Respondent again
2 contacted Patient 1 by sending her an email from Respondent's personal email account.

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Unprofessional Conduct)

5 11. Respondent is subject to disciplinary action under Code section 4301 and/or section
6 4301, subdivision (o), based on her violation of Patient 1's right to privacy as set forth in Article
7 I, section 1 of the California Constitution, the Confidentiality of Medical Information Act (Civil
8 Code §§ 56 et seq.) and the Health Insurance Portability and Accountability Act (HIPAA) (45
9 C.F.R., §§ 164.502 et seq.), in that, as set forth in paragraph 9, incorporated herein, Respondent
10 committed acts of unprofessional conduct.

11 **SECOND CAUSE FOR DISCIPLINE**

12 (Unprofessional Conduct)

13 12. Respondent is subject to disciplinary action under Code section 4301 and/or section
14 4301, subdivision (f), in that, as set forth in paragraphs 9-10, incorporated herein, she committed
15 acts of dishonesty and deceit.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Technician License Number TCH 21147, issued
20 to Nori Jean Bates;

21 2. Ordering Nori Jean Bates to pay the Board of Pharmacy the reasonable costs of the
22 investigation and enforcement of this case, pursuant to Business and Professions Code section
23 125.3; and,

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

DATED: 12/4/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.12.04 13:50:28
-08'00'

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