

APR 21 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

RHODA MAGLAYA, R.PH.

Certificate of Registration No. 18613,

GRISELDA RANGEL, PTT

Certificate of Registration No. PT18012

Respondents.

CASE NOS. 17-023-RPH-N
17-023-PTT-NNOTICE OF INTENDED ACTION
AND ACCUSATION

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the alleged events, Respondent Rhoda Maglaya, R.Ph. (Ms. Maglaya), Certificate of Registration No. 18613, was a registered pharmacist with the Board, and respondent Griselda Rangel, PTT (Ms. Rangel) was a registered pharmaceutical technician in training with the Board.

II.

Nevada Administrative Code (NAC) 639.240 states, in part, that an applicant for registration as a pharmaceutical technician in training must be a high school graduate or the equivalent. The applicant must specify on the application the pharmacy where he or she will be employed (NAC 639.242(5)), and the managing pharmacist of the employing pharmacy is required to sign the Pharmaceutical Technician in Training Application validating the applicant's employment as a trainee.

III.

On March 16, 2016, the Board Office issued pharmaceutical technician in training Certificate No. PT18012 to Griselda Rangel for employment at Walmart #10-2617.

IV.

At the time of the alleged events, Ms. Maglaya was employed as the managing pharmacist at Walmart Pharmacy #10-2617.

FACTUAL ALLEGATIONS

V.

On March 3, 2017, Ms. Maglaya telephoned Mr. Pinson to inform him that she recently discovered that Griselda Rangel had falsified her Pharmaceutical Technician in Training Application dated February 26, 2016.

VI.

Ms. Maglaya stated that Ms. Rangel checked "Yes" to question 2 on the application indicating that she is a high school graduate or equivalent. Ms. Maglaya claims that approximately one year later she learned that Ms. Rangel is not a high school graduate or the equivalent. Walmart subsequently terminated Ms. Rangel's employment.

VII.

On March 24, 2017, Ms. Rangel sent an unsolicited letter to the Board Office. In the letter, Ms. Rangel purported to surrender her pharmaceutical technician in training registration (Certificate No. PT18012). She admitted that she lied on her application by indicating that she is a high school graduate or the equivalent when she is neither.

VIII.

In the letter, Ms. Rangel accepted full responsibility for the deception. She added, however, that pharmacy manager Ms. Maglaya should be held accountable as well. Ms. Rangel explained that Ms. Maglaya encouraged her to falsify the application.

IX.

On February 18, 2016, Ms. Maglaya hired Ms. Rangel as a pharmacy clerk. Within the first week of employment, Ms. Maglaya requested that Ms. Rangel complete a technician in training application.

X.

On February 26, 2016, Ms. Rangel returned the completed application to Ms. Maglaya. Ms. Rangel explained to Ms. Maglaya that she left question 2 regarding being a high school graduate or equivalent blank because she is not.

XI.

Ms. Rangel alleges that Ms. Maglaya told her to check the "Yes" box anyway, because "the Board never checks."

XII.

Ms. Rangel did as instructed and falsely marked "Yes" in the box next to question 2 indicating that she is a high school graduate or equivalent. Ms. Rangel then signed as the applicant on the signature line attesting that the information provided is true and correct.

XIII.

As the managing pharmacist, Ms. Maglaya signed Ms. Rangel's application knowing that the application contained falsified information.

XIV.

Staff employees witnessed the exchange between Ms. Rangel and Ms. Maglaya regarding the falsification of question 2 on Ms. Rangel's application. Those employees submitted statements to the Board Investigator alleging that Ms. Maglaya instructed Ms. Rangel to mark "yes" to the question regarding high school graduate or equivalent.

XV.

Ms. Maglaya denies the allegation.

XVI.

Subsequent to the submission of the falsified application and the issuance of Ms. Rangel's certificate of registration, Ms. Rangel worked at Walmart as a pharmaceutical technician in training for approximately one year.

FIRST CAUSE OF ACTION

(Respondent Rangel)

XVII.

NAC 639.240 requires that an applicant for registration as a pharmaceutical technician in training must be a high school graduate or the equivalent. By falsely attesting on her Pharmaceutical Technician in Training Application that she is a high school graduate or the equivalent, Ms. Rangel violated NAC 639.240(2)(b), which constitutes unprofessional conduct, as that term is defined in NAC 639.945(1)(h). That violation is grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(4). Ms. Rangel's false statement is also grounds for discipline pursuant to NRS 639.281, NRS 639.210(1), (9), (10), and (12), as well as NRS 639.255.

SECOND CAUSE OF ACTION

(Respondent Maglaya)

XVIII.


"Performing or in any way being a party to any fraudulent or deceitful practice or transaction" constitutes "unprofessional conduct and conduct contrary to the public interest." NAC 639.945(1)(h). Engaging in conduct that constitutes unprofessional conduct or that is contrary to the public interest is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(4).

Ms. Maglaya allowed and encouraged an employee under her direct supervision, namely, Ms. Rangel, to secure a pharmaceutical technician in training registration by making a false representation of her education credentials. As the managing pharmacist, Ms. Maglaya willfully

and knowingly signed the application falsified by Ms. Rangel. Ms. Maglaya's actions constitutes unprofessional conduct. Ms. Rangel is guilty of unprofessional conduct as that term is defined in NAC 639.945(1)(h). That violation is grounds for discipline pursuant to Nevada Revised Statute (NRS) 639.210(4) as well as NRS 639.281, NRS 639.210(1), (9), (12), and (15), and NRS 639.255.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of these respondents.

Signed this 21st day of April, 2017.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of the Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-023-RPH-N
)	
Petitioner,)	
)	
v.)	
	)	STATEMENT TO THE RESPONDENT
RHODA MAGLAYA, R.PH.	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. 18613,	)	AND ACCUSATION
	)	RIGHT TO HEARING
Respondent.)	
	/	

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

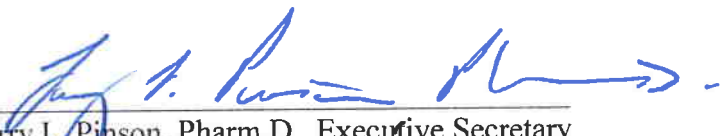
III.

The Board has scheduled your hearing on this matter for Wednesday, May 31, 2017, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 21st day of April, 2017.



Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

Roderic A. Carucci, Esq. (#4233)
Carucci and Associates
702 Plumas Street
Reno, NV 89509
775-323-0400
Attorney for Rhoda Maglaya, R.PH.

FILED

MAY 15 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF
PHARMACY,

Petitioner,

CASE NO.: 17-023-RPH-N

v.

RHODA MAGLAYA, R.PH.
Certificate of Registration No.
18613,

Respondent.

ANSWER AND NOTICE OF DEFENSE

and REQUEST FOR HEARING

Respondent, Rhoda Maglaya, by and through counsel, Roderic A. Carucci, Esq. and the law firm of Carucci and Associates, respectfully submits the following answer and notice of defenses Respondent further requests a hearing on the matter.

1. Admit that at all relevant times, respondent was a registered pharmacist in the State of Nevada and that the Board of Pharmacy had jurisdiction over the matter.

2. Admit that paragraph 2 of the complaint accurately paraphrases the applicable statute which requires the managing pharmacist to sign the Pharmaceutical Technician in Training Application. This administrative code does not require the pharmacist to independently verify the factual accuracy of such application.

1 3. Respondent is without knowledge or information sufficient to form a belief
2 as to the truth of the averments in Paragraph 3 of the complaint.

3 4. Admit that respondent was employed by Walmart as the managing
4 pharmacist at the Winnemucca, Nevada store on March 16, 2016.

5 5. Deny that respondent spoke with Larry Pinson, Executive Secretary of the
6 Nevada Board of Pharmacy on March 3, 2017. Admit that respondent spoke to Larry
7 Pinson on March 9, 2017. Admit that respondent advised Larry Pinson on March 9, 2017,
8 that respondent recently discovered that Griselda Rangel had falsified her Pharmaceutical
9 Technician in Training Application.

10 6. Admit that Rangel falsified her Pharmaceutical Technician in Training
11 Application. Admit that respondent learned of this falsification approximately one year
12 later. Respondent became curious about Rangel's claim to be a High School graduate
13 because Rangel was unable to perform routine mathematical computations required of any
14 pharmacist or trainee. Rangel's regularly refused to take responsibility for her mistakes
15 and would regularly complain to WalMart management (open door policy) when she was
16 subjected to corrective / disciplinary action. At a WalMart meeting with management and
17 respondent on March 9, 2017, Rangel revealed for the first time that she had falsified her
18 application and did not have a High School degree. There were also issues of payroll
19 integrity and inability to get along with other employees that were addressed with Rangel
20 at the March 9, 2017, WalMart management meeting. Consistent with her past
21 behavioral patterns, Rangel attempted to deflect and blame others for her knowing
22 falsification of her application by claiming that respondent told her to falsify her
23 application. There is absolutely no independent, legally admissible, proof to support
24 Rangel's claim and she is entitled to no credibility as a witness since she admits to
25 committing perjury.

26 7. Respondent is without knowledge or information sufficient to form a belief
27 as to the truth of the averments in Paragraph 7 of the complaint. Rangel's purported
28 letter to the Board of March 24, 2017, establishes that she has committed perjury and that

1 she is not entitled to any credibility as a witness. Respondent has never seen this letter.

2 8. Deny the averments contained in this paragraph. Rangel is not accepting full
3 responsibility for her deceitful actions if she is attempting to deflect blame to others.
4 Respondent denies that she ever encouraged Rangel to lie on her application. Respondent
5 does acknowledge that there is a history or conflict with Rangel at work based upon
6 Rangel's poor performance and lack of integrity during the time of her employment. This
7 establishes a foundation Rangel's malicious desire to retaliate against respondent. There
8 is a history of conflict between respondent and Rangel in the workplace.

9 9. Admit that respondent hired Rangel as a pharmacy clerk on or about
10 February 18, 2016. Deny that respondent ever requested that Rangel complete a
11 technician training application. During the first week of Rangel's employment, Rangel
12 made a prescription error which was caught and remedied. Based upon that incident
13 alone, respondent would never have requested or encouraged Rangel to apply for a
14 technician training application.

15 10. Deny. Rangel's assertion is simply false. Respondent has no recollection as
16 to whether the High School graduation section of Rangel's application was left blank or
17 if Rangel falsely and affirmatively stated that she was a High School graduate.
18 Respondent specifically denies that Rangel explained anything to her about Rangel's
19 application, particularly the High School graduation section.

20 11. Deny. Respondent denies providing any assistance whatsoever to Rangel in
21 completing her application. Respondent never told Rangel to check the "yes" box, nor did
22 respondent ever tell Rangel that "the Board never checks." Respondent has no idea
23 whether the Board independently verifies or checks these applications or not.

24 12. Deny that "Ms. Rangel did as instructed." Respondent did not instruct
25 Rangel in any phase of the completion of Rangel's application. Rangel's application speaks
26 for itself as she apparently signed the line attesting that the information contained therein
27 was true and correct.

28 13. Deny. Respondent was the managing pharmacist at the relevant time. Deny

1 that respondent had any knowledge that Rangel's application contained false averments
2 of fact. Nothing in the "Pharmaceutical Technician in Training Application" requires the
3 managing pharmacist to independently verify the truth of the statements contained
4 therein. The signature of the managing pharmacist is contained in the section "requesting
5 registration at the following pharmacy." I appears to be an endorsement that the
6 application is being filed for employment at the managing pharmacist's pharmacy. The
7 questions pertaining to education are containing in an entirely separate block of the
8 application, contained within a solid line box, and below the signature section for the
9 managing pharmacist. Nothing in the NAC requires independent verification by the
10 managing pharmacist of the information set forth in the application by the preparer and
11 signer of the application.

12 14. Deny that there are any independent witnesses to a verbal transaction
13 between respondent and Rangel on February 26, 2016.

14 15. Admit.

15 16. Admit.

16 WHEREFORE, respondent prays for the following relief:

17 1. That both the First and Second Causes of Action be dismissed with prejudice
18 as the Board cannot meet its burden of proof by clear and convincing evidence.

19
20 **AFFIRMATIVE DEFENSES**

21 1. NAC 639.240 requires the managing pharmacist to sign the Pharmaceutical
22 Technician in Training Application, it does not require the managing pharmacist signing
23 the application to independently verify the facts set forth therein by the applicant.

24 2. During the March 9, 2017 telephone conversation between respondent and
25 Larry Pinson, respondent was advised: "This is a lesson learned for you. From now on
26 you need to verify credentials. We will not go after you at this time." Respondent restated
27 Larry Pinson's statements in a return email dated March 13, 2017.

28 3. That Rangel not entitled to any credibility as a witness as she has admitted

1 to perjury.

2 4. Rangel was unable to perform routine job functions, including mathematical
3 calculations, which caused respondent to investigate her background with management
4 at Walmart and to participate in disciplinary proceedings regarding Rangel.

5 5. Rangel had a history of repeated disciplinary issues / frictions with the
6 employer; she filed grievances and has a motive to retaliate; she has a motive to lie and
7 is not entitled to any credibility as a witness.

8 DATED: May 15, 2017

9 Carucci & Associates
10 702 Plumas Street
11 Reno, Nevada 89509
12 (775) 323-0400

13 By:


14 Roderic A. Carucci, Esq.
15 Attorney for Rhoda Maglaya
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Carucci & Associates and on May 15, 2017, I served a true and correct copy of:

Answer and Notice of Defense and Request for Hearing

by:

_____ Placing an original or true copy thereof in a sealed envelope, postage prepaid for collection and mailing in the United States Mail at Reno, Nevada

X_____ Personal Delivery

_____ Facsimile to the following number: _____

_____ Reno Carson Messenger Service


_____ Certified Mail, Return Receipt Requested

_____ E-Flex filing system

_____ Electronic mail addressed to:

addressed to:

Nevada State Board of Pharmacy
431 West Plumb Lane
Reno, NV 89509


Bryttanie McNeff
Carucci and Associates

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-023-PTT-N
)	
Petitioner,)	
)	
v.)	
)	
GRISELDA RANGEL, PTT	)	ANSWER AND NOTICE
Certificate of Registration No. PT18012,	)	OF DEFENSE
)	
Respondents.)	
	/	

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of _____, 2017.

GRISELDA RANGEL, PTT

FILED

AUG 04 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

LISA K. BROWN, R.PH.,
a.k.a LISA ANNE PANAB,
a.k.a. LISA ANNE KESLER,
a.k.a. LISA ANN KESLER,
a.k.a. LISA AANNE KESLER,
a.k.a. ANNALISA HAGH, and
a.k.a. ANNALISA HAGH-PANAH,
Certificate of Registration No. 12258,

Respondent.

CASE NO. 17-068-RPH-N

NOTICE OF INTENDED ACTION
AND ACCUSATION

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy ("Board") has jurisdiction over this matter because Respondent **LISA K. BROWN, R.PH.** (a.k.a. Lisa Anne Panab, Lisa Anne Kesler, Lisa Ann Kesler, Lisa Anne Kesler, Annalisa Hagh, and/or Annalisa Hagh-Panah) (collectively "Ms. Brown"), **Certificate of Registration No. 12258**, was a registered pharmacist with the Board at the time of the events alleged herein.

FACTUAL ALLEGATIONS

II.

While registered as a pharmacist with this Board and while licensed with the Board of Pharmacy, Department of Consumer Affairs, State of California ("CA Board"), Respondent Ms. Brown used several names, nicknames and/or aliases, including: Lisa K. Brown, Lisa Anne

Panab, Lisa Anne Kesler, Lisa Ann Kesler, Lisa Aanne Kesler, Annalisa Hagh, and Annalisa Hagh-Panah.

III.

In April 2008, the CA Board disciplined Ms. Brown's California Pharmacist License No. RPH 47276 ("CA License").

IV.

The CA Board disciplined Ms. Brown's CA License after she stipulated to the following factual allegations:

- a. On or about May 13, 2005, in a criminal proceeding entitled *The People of the State of California v. Lisa Ann Kesler* in Kern County Superior Court, Metropolitan Justice Building, Case No. BM668119A, Respondent [Ms. Brown] was convicted on a plea of *nolo contendere* for violating Vehicle Code section 23103.5(a) (plea to violation of Veh. Code, § 23103 [reckless driving] in lieu of Veh. Code Veh. Code, § 23153 [DUI factual basis]), a misdemeanor.
- b. The circumstances surrounding the conviction are that on or about December 15, 2004, California Highway Patrol officers observed Respondent [Ms. Brown] driving a vehicle with a child unsecured by safety belts. Respondent admitted to the officers that she had taken Vicodin, a controlled substance and dangerous drug. Respondent tested positive for amphetamines and opiates: phentermine, codeine, morphine, hydrocodone (V[i]codine) and hydromorphone.

(*Stipulated Settlement and Disciplinary Order*, Case No. 3050, dated April 3, 2008, attached hereto as **Exhibit 1** and incorporated herein by reference, at pg. 3, ¶9 (citing *First Amended Accusation*, Case No. 3050, dated December 18, 2007, attached here as **Exhibit 2** and incorporated herein by reference, at pg. 5, ¶¶ 22(a) and (b))).

V.

To resolve the allegations by the CA Board as stated in the *First Amended Accusation*, Case No. 3050 (Ex. 2), Ms. Brown stipulated that in the event of a hearing, the CA Board "could establish a factual basis for the charges in the First Amended Accusation." (Ex. 1, at pg. 3, ¶9.) Accordingly, Ms. Brown did not contest any of the factual or legal allegations against her. (*Id.*)

VI.

Ms. Brown further stipulated to have her CA License revoked, to have the revocation stayed, and to have her CA License placed on probation for five (5) years with certain terms and conditions. (See Ex. 1, pg. 4, ll. 8-10.)

VII.

The terms and conditions of Ms. Brown's California probation included, among other things:

a. One-Year Suspension -- Ms. Brown's CA License was suspended for one (1) year. (Ex. 1, pg. 4, ¶1.)

b. Obey All Laws -- Ms. Brown's probation was conditioned on her compliance with all state and federal laws and regulations substantially related to the practice of pharmacy. She was required to report to the CA Board within 72 hours of its occurrence any instance of arrest, issuance of a criminal complaint, guilty plea or plea of nolo contendere, conviction, and/or administrative discipline. (Ex. 1, pg. 4-5, ¶2.)

c. Reporting to the Board -- Ms. Brown was required to report quarterly to the CA Board regarding her compliance with all of the terms of her probation. (Ex. 1, pg. 5, ¶3.)

d. Notification of Employment/Mailing Address Change -- Ms. Brown was required to report to the CA Board, within 10 days of its occurrence, any change of employment and/or any change of name, mailing address or phone number. (Ex. 1, pg. 7, ¶14.)

e. Tolling of Probation -- Ms. Brown was required to "work at least 40 hours in each calendar month as a pharmacist and at least an average of 80 hours per month in any six consecutive months following [her] 12-month suspension." (Ex. 1, pg. 8, ¶15.) Ms. Brown's probation could have been tolled under certain circumstances if she had failed to work the hours required." (*Id.*)

f. Rehabilitation Program – Pharmacists Recovery Program (PRP) -- Ms. Brown was required to submit to an evaluation and successfully complete a treatment contract with

the California Pharmacists Recovery Program. (Ex. 1, pg. 8, ¶18.)

VIII.

The CA Board accepted Ms. Brown's *Stipulated Settlement and Disciplinary Order* (Ex. 1) in May 2008, with an effective date of June 27, 2008. (See *Decision and Order*, Case No. 3050 (2008), attached hereto as **Exhibit 3** and incorporated herein by reference.)

IX.

After being the subject of the California administrative action referenced above (CA Case No. 3050), and after entering into the *Stipulated Settlement and Disciplinary Order* (Ex. 2) to resolve those allegations — in which the CA Board revoked Ms. Brown's CA License, stayed the revocation, put her CA License on probation, and imposed terms and conditions, including a one-year suspension — Ms. Brown renewed her Nevada pharmacist registration (No. 12258) in 2009. On her Renewal Application, Ms. Brown checked the box indicating "No" in response to each of three questions regarding discipline over the prior two years:

Since your last renewal or recent licensure have you:

1. Been charged, arrested or convicted of a felony or misdemeanor in any state?
2. Been the subject of an administrative action whether completed or pending in any state?
3. Had your license subjected to any discipline for violation of pharmacy or drug law in any state?

(See *Nevada State Board of Pharmacy Renewal Application PHARMACIST*, attached hereto as **Exhibit 4**.)

X.

By responding "No" to those three questions on the her Renewal Application, when the answers should have been "Yes" due to her California criminal case and subsequent administrative case and discipline, Ms. Brown willfully made a false and/or fraudulent statement to the Board in order to renew her Nevada registration.

XI.

Ms. Brown also responded "No" to those three questions on each of her subsequent renewal applications in 2011, 2013 and 2015.

XII.

Board Staff has no record that Ms. Brown ever reported or otherwise disclosed it to her California criminal conviction or her California discipline.

XIII.

Ms. Brown failed to comply with the terms and conditions of her California probation.

XIV.

The CA Board initiated a second disciplinary case against Ms. Brown ("Case No. 4493") and in October 2014, filed and serviced Ms. Brown with its *First Amended Accusation and Petition to Revoke Probation* in that action, a copy of which is attached hereto as **Exhibit 5** and incorporated herein by reference.

XV.

The factual allegations stated in Case No. 4493 are as follows:

15. On October 21, 2012, loss prevention officers at Safeway in Santa Clara, California, saw respondent [Ms. Brown] put approximately \$53.00 of merchandise into her purse and leave the store without paying for the items. Respondent first identified herself to the arresting police officer as Anne Lynn Keller, and then by other false names.

16. Respondent had keys to a car. When the officer asked for her permission to search the car, she said that it was not her car but she consented to a search. The officer found a purse in the glove compartment. Inside the purse was respondent's [Ms. Brown's] driver's license, and five and one-half loose pills of suspected Hydrocodone. The pills were not in a prescription bottle and respondent could not produce a prescription for them.

17. Respondent [Ms. Brown] was arrested and charged with petty theft . . . false representation of identity to a police officer . . . and possession of a controlled substance

18. On or about May 9, 2013, in *The People of the State of California vs. Lisa Anne Kesler*, Santa Clara County Superior Court Case Number C1243520, entitled respondent pled guilty or no contest to false representation of identity to a police officer . . . , a misdemeanor, and was placed on probation.

(Ex. 5, pg. 5-6, ¶¶ 15-18.)

XVI.

Based on those alleged facts, the CA Board charged Ms. Brown with various violations of California law. (See Ex. 5, pg. 6-7, ¶¶ 19-28.) It also alleged five causes of action seeking to revoke Ms. Brown's probation and thereby lift the stay and reinstate the revocation of Ms. Brown's CA License in Case No. 3050. (*Id.* at pg. 7-12, ¶¶ 29-45 and pg. 12, ll.7-19.)

XVII.

Ms. Brown responded to the CA Board's Accusation in Case No. 4493, and she requested a hearing. (See *Default Decision and Order*, Case No. 4493 (March 14, 2016), attached hereto as **Exhibit 6** and incorporated herein by reference, at pg. 2, ¶6.)

XVIII.

Ms. Brown failed to appear at her hearing. (*Id.*)

XIX.

The CA Board found Ms. Brown in default and further found that "the charges and allegations in the First Amended Accusation and Petition to Revoke Probation No. 4493, are separately and severally, found to be true and correct by clear and convincing evidence. (See Ex. 6, pg. 3, ¶9.)

XX.

The CA Board revoked Ms. Brown's probation and lifted the stay in Case No. 3050, concluding, based on evidence, that Ms. Brown violated various California laws relating to the practice of pharmacy, including:

- A Criminal Conviction,
- Unprofessional Conduct – Criminal Conviction,

- Unprofessional Conduct – Act Involving Dishonesty, Fraud, Deceit, or Corruptions (two violations),
- Unprofessional Conduct – Possession of Controlled Substance.

(Ex. 6, pg. 3, ¶3.)

XXI.

The CA Board also found Ms. Brown guilty of various violations of the terms and condition of her probation, including:

- Failure to Report Arrest to the Board (Violation of Term and Condition 2),
- Failure to Report to the Board (Violation of Term and Condition 4),
- Failure to Notify Employment Change (Violation of Term and Condition 14),
- Failure to Work Required Number of Hours (Violation of Term and Condition 15),
- Failure to Successfully Participate In and Complete the PRP (Violation of Term and Condition 18).

(Ex. 6, pg. 3-4, ¶4.)

XXII.

Based on its findings and conclusions, the CA Board revoked Ms. Brown's CA License effective March 14, 2016. (Ex. 6, pg. 4, ll. 10-11.)

APPLICABLE LAW

XXIII.

Nevada Revised Statutes (NRS) 453.336(1) states, in relevant part, that “a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a [lawful] prescription or order of a [practitioner]”.

XXIV.

NRS 639.210 states, in relevant part:

The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter . . . if the holder or applicant:

1. Is not of good moral character ...
4. Is guilty of unprofessional conduct or conduct contrary to the public interest ...
6. Has been convicted of a violation of any law or regulation of . . . this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;
9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;
10. Has obtained any certificate, certification, license or permit by the filing of an application, or any record, affidavit or other information in support thereof, which is false or fraudulent ...
12. Has violated . . . any of the provisions of this chapter or any law or regulation relating to drugs . . . [the] distribution of drugs or the practice of pharmacy . . . [or]
14. Has had a certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State

XXV.

NRS 639.281 states:

1. Any person who secures or attempts to secure registration for himself or herself or any other person by making, or causing to be made, any false representation . . . is guilty of a misdemeanor.
2. Any certificate issued by the Board on information later found to be false or fraudulent must be automatically cancelled by the Board.

XXVI.

NAC 639.945(1)(h) states that “[p]erforming or in any way being a party to any fraudulent or deceitful practice or transaction” constitutes “unprofessional conduct and conduct contrary to the public interest.”

FIRST CAUSE OF ACTION

XXVII.

By having her CA License No. RPH 47276 revoked in California Case Nos. 3050 and 4493 for the grounds on which the CA Board relied in those cases, Ms. Brown subjected her Nevada pharmacist registration certificate No. 12258 to discipline and revocation pursuant to NRS 453.336(1), NRS 639.210(1), (4), (6), (10), (12) and (14), NRS 639.281 and NAC 639.945(1)(h).

XXVIII.

The grounds on which the CA Board revoked Ms. Brown’s CA License are grounds on which this Board could conclude that Ms. Brown:

1. Is not of good moral character (NRS 639.210(1)),
2. Is guilty of unprofessional conduct or conduct contrary to the public interest (NRS 639.210(4));
3. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs (NRS 639.210(6));
4. Has obtained any certificate, certification, license or permit by the filing of an application . . . which is false or fraudulent (NRS 639.210(10));
5. Has violated . . . any of the provisions of this chapter or any law or regulation relating to drugs . . . [the] distribution of drugs or the practice of pharmacy . . . [or] (NRS 639.210(12)), and

6. Has had a certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State . . . (NRS 639.210(14)).

Each of those grounds are a basis on which the Board should suspend or revoke Ms. Brown's Nevada pharmacist registration No. 12258.

SECOND CAUSE OF ACTION

XXIX.

By failing to disclose on her Renewal Application(s) that she had been the subject of criminal actions and administrative actions in California, Ms. Brown's Registration No. 12258 is subject to discipline, including suspension and/or revocation, pursuant to NRS 639.210(1), (4), and (10), and NRS 639.281 and NAC 639.945(1)(h).


XXX.

For the violations alleged above, Ms. Brown's Registration No. 12258 is subject to suspension and/or revocation pursuant to NRS 639.210, NRS 639.255 and/or NRS 639.281.

XXXI.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of Respondent Lisa K. Brown, up to and including suspension or revocation of her Nevada pharmacist registration.

Signed this 1st day of August 2017.


Larry L. Pinson, Pharm.D.,
Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of the Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**LISA K. BROWN, R.PH.,
a.k.a LISA ANNE PANAB,
a.k.a. LISA ANNE KESLER,
a.k.a. LISA ANN KESLER,
a.k.a. LISA AANNE KESLER,
a.k.a. ANNALISA HAGH, and
a.k.a. ANNALISA HAGH-PANAH,
Certificate of Registration No. 12258,**

Respondent.

) **CASE NO. 17-068-RPH-N**

)

)

)

) **STATEMENT TO THE RESPONDENT**

) **NOTICE OF INTENDED ACTION**

) **AND ACCUSATION**

) **RIGHT TO HEARING**

)

)

)

)

)

)

/

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a *Notice of Intended Action and Accusation* has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you and your pharmacist license, as is more fully explained and set forth in the *Notice of Intended Action and Accusation* served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Board to answer the allegations in the *Notice of Intended Action and Accusation* and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the *Answer and Notice of Defense* documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this *Statement and Notice*, and of the *Notice of Intended Action and Accusation* served within.


III.

The Board has scheduled your hearing on this matter for Wednesday, September 6, 2017, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

IV.

Failure to complete and file your *Notice of Defense* with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the allegations in the *Notice of Intended Action and Accusation* filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 4th day of August 2017.



Larry L. Pinson, Pharm.D.,
Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 17-068-RPH-N
)	
Petitioner,)	
)	
v.)	
	)	ANSWER AND NOTICE
LISA K. BROWN, R.PH.,	)	OF DEFENSE
a.k.a LISA ANNE PANAB,)	
a.k.a. LISA ANNE KESLER,)	
a.k.a. LISA ANN KESLER,)	
a.k.a. LISA AANNE KESLER,)	
a.k.a. ANNALISA HAGH, and)	
a.k.a. ANNALISA HAGH-PANAH,)	
Certificate of Registration No. 12258,)	
)	
Respondent.	/	

Respondent above named, in answer to the *Notice of Intended Action and Accusation* filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That her objection to the *Notice of Intended Action and Accusation* as being incomplete or failing to state clearly the charges against her, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the *Notice of Intended Action and Accusation*, she admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ____ day of August 2017.

LISA K. BROWN, R.PH.

Exhibit 1

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-6375
Facsimile: (213) 897-2804
6

Attorneys for Complainant
7

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

12 In the Matter of the First Amended Accusation
Against:

13 LISA ANNE PANAB
a.k.a. LISA ANNE KESLER
14 a.k.a. LISA ANN KESLER
a.k.a. LISA AANNE KESLER
15 13061 Rosedale Highway #182
Bakersfield, CA 93312

16 Pharmacist License No. RPH 47276

17 Respondent.
18

Case No. 3050

OAH No. L-2007060143

19 **STIPULATED SETTLEMENT AND**
20 **DISCIPLINARY ORDER**

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

23 **PARTIES**

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
Pharmacy (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by Linda L.
26 Sun, Deputy Attorney General.

27 2. Respondent is represented in this proceeding by attorney Samuel Spital,
28 whose address is 8880 Rio San Diego Dr., #800, San Diego, CA 92108.

3. On or about August 4, 1994, the Board of Pharmacy issued Pharmacist License No. RPH 47276 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 3050 and will expire on September 30, 2009, unless renewed.

JURISDICTION

4. First Amended Accusation No. 3050 was filed before the Board December 18, 2007, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on December 21, 2007. Respondent timely filed her Notice of Defense contesting the Accusation and the First Amended Accusation. A copy of First Amended Accusation No. 3050 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 3050. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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1 CULPABILITY

2 8. Respondent understands and agrees that the charges and allegations in
3 First Amended Accusation No. 3050, if proven at a hearing, constitute cause for imposing
4 discipline upon her Pharmacist License.

5 9. For the purpose of resolving the First Amended Accusation without the
6 expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,
7 Complainant could establish a factual basis for the charges in the First Amended Accusation, and
8 that Respondent hereby gives up her right to contest those charges.

9 10. Respondent agrees that her Pharmacist License is subject to discipline and
10 she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary
11 Order below.

12 RESERVATION

13 11. The admissions made by Respondent herein are only for the purposes of
14 this proceeding, or any other proceedings in which the Board or other professional licensing
15 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

16 CONTINGENCY

17 12. This Stipulation shall be subject to approval by the Board. Respondent
18 understands and agrees that counsel for Complainant and the staff of the Board may
19 communicate directly with the Board regarding this stipulation and settlement, without notice to
20 or participation by Respondent or her counsel. By signing the stipulation, Respondent
21 understands and agrees that she may not withdraw her agreement or seek to rescind the
22 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
23 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
24 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
25 the parties, and the Board shall not be disqualified from further action by having considered this
26 matter.

27 ///

28 ///

1 13. The parties understand and agree that facsimile copies of this Stipulated
2 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
3 force and effect as the originals.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 47276 issued to
9 Respondent is revoked. However, the revocation is stayed and Respondent is placed on
10 probation for five (5) years on the following terms and conditions.

11 1. **Actual Suspension.** As part of probation, Respondent is suspended from
12 the practice of pharmacy for 12 months beginning the effective date of this Decision.

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

21 Respondent shall not engage in any activity that requires the professional
22 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
23 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for
24 any entity licensed by the Board.

25 2. **Obey All Laws.** Respondent shall obey all state and federal laws and
26 regulations substantially related to or governing the practice of pharmacy.

27 Respondent shall report any of the following occurrences to the Board, in writing,
28 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 substances laws;
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- a conviction of any crime;
- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

3. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is **not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

4. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

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

6. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

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1 7. **Notice to Employers.** Respondent shall notify all present and
2 prospective employers of the decision in Case No. 3065 and the terms, conditions and
3 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
4 this decision, and within 15 days of Respondent undertaking new employment, Respondent
5 shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
6 writing acknowledging the employer has read the decision in Case No. 3065.

7 If Respondent works for or is employed by or through a pharmacy employment
8 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
9 every pharmacy of the and terms conditions of the decision in Case No. 3065 in advance of the
10 Respondent commencing work at each pharmacy.

11 "Employment" within the meaning of this provision shall include any full-time,
12 part-time, temporary, relief or pharmacy management service as a pharmacist,
13 whether the Respondent is considered an employee or independent contractor.

14 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
15 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
16 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
17 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
18 order.

19 9. **No Ownership of Premises.** During the period of probation,
20 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
21 administrator, member, officer, director, associate, or partner of any business, firm,
22 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall
23 sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90
24 days following the effective date of this decision and shall immediately thereafter provide
25 written proof thereof to the Board.

26 10. **Reimbursement of Board Costs.** Respondent shall pay to the Board
27 its costs of investigation and prosecution in the amount of seven-thousand eight-hundred and
28 fifty dollars (\$7,850). Respondent shall make said payments in quarterly installments.

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

3 **11. Probation Monitoring Costs.** Respondent shall pay the costs
4 associated with probation monitoring as determined by the Board each and every year of
5 probation. Such costs shall be payable to the Board at the end of each year of probation.
6 Failure to pay such costs shall be considered a violation of probation.

7 **12. Status of License.** Respondent shall, at all times while on probation,
8 maintain an active current license with the Board, including any period during which
9 suspension or probation is tolled.

10 If Respondent's license expires or is canceled by operation of law or otherwise,
11 upon renewal or reapplication, Respondent's license shall be subject to all terms and
12 conditions of this probation not previously satisfied.

13 **13. License Surrender while on Probation/Suspension.** Following the
14 effective date of this decision, should Respondent cease practice due to retirement or health, or
15 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
16 her license to the Board for surrender. The Board shall have the discretion whether to grant
17 the request for surrender or take any other action it deems appropriate and reasonable. Upon
18 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
19 terms and conditions of probation.

20 Upon acceptance of the surrender, Respondent shall relinquish her pocket
21 license to the Board within 10 days of notification by the Board that the surrender is accepted.
22 Respondent may not reapply for any license from the Board for three years from the effective
23 date of the surrender. Respondent shall meet all requirements applicable to the license sought
24 as of the date the application for that license is submitted to the Board.

25 **14. Notification of Employment/Mailing Address Change.** Respondent
26 shall notify the Board in writing within 10 days of any change of employment. Said
27 notification shall include the reasons for leaving and/or the address of the new employer,
28 supervisor or owner and work schedule if known. Respondent shall notify the Board in

1 writing within 10 days of a change in name, mailing address or phone number.

2 15. **Tolling of Probation.** Respondent shall work at least 40 hours in each
3 calendar month as a pharmacist and at least an average of 80 hours per month in any six
4 consecutive months following the 12-month suspension. Failure to do so will be a violation of
5 probation. If Respondent has not complied with this condition during the probationary term,
6 and Respondent has presented sufficient documentation of her good faith efforts to comply
7 with this condition, and if no other conditions have been violated, the Board, in its discretion,
8 may grant an extension of Respondent's probation period up to one year without further
9 hearing in order to comply with this condition.

10 16. **Violation of Probation.** If Respondent violates probation in any
11 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
12 probation and carry out the disciplinary order which was stayed. If a petition to revoke
13 probation or an accusation is filed against Respondent during probation, the Board shall have
14 continuing jurisdiction and the period of probation shall be extended, until the petition to
15 revoke probation or accusation is heard and decided.

16 If Respondent has not complied with any term or condition of probation, the
17 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
18 be extended until all terms and conditions have been satisfied or the Board has taken other
19 action as deemed appropriate to treat the failure to comply as a violation of probation, to
20 terminate probation, and to impose the penalty which was stayed.

21 17. **Completion of Probation.** Upon successful completion of probation,
22 Respondent's license will be fully restored.

23 18. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**
24 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
25 Recovery Program for evaluation and shall successfully participate in and complete the
26 treatment contract and any subsequent addendums as recommended and provided by the PRP
27 and as approved by the Board. The costs for PRP participation shall be borne by the
28 Respondent.

1 If Respondent is currently enrolled in the PRP, said participation is now
2 mandatory and is no longer considered a self-referral under Business and Professions Code
3 section 4363, as of the effective date of this decision. Respondent shall successfully
4 participate in and complete her current contract and any subsequent addendums with the PRP.
5 Probation shall be automatically extended until Respondent successfully completes her
6 treatment contract. If Respondent is terminated from the program, she shall be automatically
7 suspended upon notice by the Board. Respondent may not resume the practice of pharmacy
8 until notified by the Board in writing. The Board shall retain jurisdiction to institute action to
9 terminate probation for any violation of this term.

10 **19. Random Drug Screening.** Respondent, at her own expense, shall
11 participate in random testing, including but not limited to biological fluid testing (urine,
12 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
13 The length of time shall be for the entire probation period and the frequency of testing will be
14 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
15 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
16 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
17 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
18 in the immediate suspension of practice by Respondent. Respondent may not resume the
19 practice of pharmacy until notified by the Board in writing.

20 **20. Abstain from Drugs and Alcohol Use.** Respondent shall completely
21 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
22 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
23 practitioner as part of a documented medical treatment. Upon request of the Board,
24 Respondent shall provide documentation from the licensed practitioner that the prescription
25 was legitimately issued and is a necessary part of the treatment of the Respondent.

26 **21. Ethics Course.** Within 180 calendar days of the effective date of this
27 decision, Respondent shall enroll in a course in Ethics at Respondent's expense, approved in
28 advance by the Board or its designee. Failure to initiate the course during the first year of

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SPITAL AND ASSOCIATES

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1 probation, and complete it within the second year of probation, is a violation of probation.

2 Respondent shall submit a certificate of completion to the Board or its designee
3 within five days after completing the course.

4 **ACCEPTANCE**

5 I have carefully read the above Stipulated Settlement and Disciplinary Order
6 and have fully discussed it with my attorney, Samuel Spital. I understand the stipulation and
7 the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and
8 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
9 Decision and Order of the Board.

10 DATED: 4/3/08

11 
12 **LISA ANNE PANAB A.K.A. LISA ANNE KESLER**
Respondent

13 I have read and fully discussed with Respondent Lisa Anne Panab a.k.a. Lisa
14 Anne Kesler the terms and conditions and other matters contained in the above Stipulated
15 Settlement and Disciplinary Order. I approve its form and content.

16 DATED: 4/4/08

17 
18 **SAMUEL SPITAL**
Attorney for Respondent

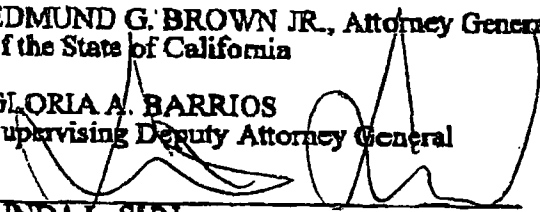
19 **ENDORSEMENT**

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

22 DATED: 4/7/08

23 **EDMUND G. BROWN JR., Attorney General**
of the State of California

24 **GLORIA A. BARRIOS**
Supervising Deputy Attorney General

25 
26 **LINDA L. SUN**
27 Deputy Attorney General

28 Attornsys for Complainant

Exhibit 2

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-6375
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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

11 In the Matter of the First Amended Accusation
Against:

Case No. 3050

12 LISA ANNE PANAB
13 a.k.a. LISA ANNE KESLER
a.k.a. LISA ANN KESLER
14 a.k.a. LISA AANNE KESLER
15 13061 Rosedale Highway #182
Bakersfield, CA 93312

FIRST AMENDED ACCUSATION

16 Pharmacist License No. RPH 47276

17 Respondent.

18
19
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about August 4, 1994, the Board issued Pharmacist License No.
26 RPH 47276 to Lisa Anne Panab a.k.a. Lisa Anne Kesler a.k.a. Lisa Ann Kesler a.k.a. Lisa Anne
27 Kesler (Respondent). The Pharmacist License was in full force and effect at all times relevant to
28 the charges brought herein and has expired on September 30, 2009.

JURISDICTION

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

4. Section 118, subdivision (b), provides that the suspension / expiration / surrender / cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4059, subdivision (a) provides in pertinent part: "A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian. . . ."

6. Section 4060 provides in pertinent part:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian. . . ."

7. Section 4300, subdivision (a), states: "Every license issued may be suspended or revoked."

8. 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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

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

....

///

///

1 “(h) The administering to oneself, of any controlled substance, or the use of any
2 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
3 injurious to oneself, to a person holding a license under this chapter, or to any other person or to
4 the public, or to the extent that the use impairs the ability of the person to conduct with safety to
5 the public the practice authorized by the license.

6

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

9

10 “(l) The conviction of a crime substantially related to the qualifications, functions,
11 and duties of a licensee under this chapter. . . .

12

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

17 9. Section 490 states:

18 “A board may suspend or revoke a license on the ground that the licensee has
19 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
20 duties of the business or profession for which the license was issued. A conviction within the
21 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
22 contendere. Any action which a board is permitted to take following the establishment of a
23 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
24 been affirmed on appeal, or when an order granting probation is made suspending the imposition
25 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
26 Penal Code.”

27 ///

28 ///

10. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

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

CONTROLLED SUBSTANCES/ DANGEROUS DRUGS

12. Codeine, generic name for codeine phosphate, is a Schedule II controlled substance as defined in Health and Safety Code section 11055 (b)(1)(h); and categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

13. Hydromorphone, an opium derivative, is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(k) and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

14. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section 4022.

15. Adipex, brand name for Phentermine, a stimulant, is classified as a Schedule IV controlled substance pursuant to the Health and Safety Code section 11057(f)(4), and is a dangerous drug within the meaning of Business and Professions Code section 4022.

16. Vicodin/Norco, trade name for a combination drug containing hydrocodone bitartrate (opioid analgesic) and acetaminophen, is a Schedule III controlled substance as defined in Health and Safety Code section 11056(e)(7) and is categorized as a dangerous drug according to Business and Professions Code section 4022.

1 17. Motrin, brand name for Ibuprofen, is categorized as a dangerous drug
2 according to Business and Professions Code section 4022.

3 18. Levoquin, brand name for Levofloxacin, is categorized as a dangerous
4 drug according to Business and Professions Code section 4022.

5 19. Locoid, brand name for Hydrocortisone, is categorized as a dangerous
6 drug according to Business and Professions Code section 4022.

7 20. Lidocaine is categorized as a dangerous drug according to Business and
8 Professions Code section 4022.

9 21. Dextroamphetamine is a Schedule II controlled substance pursuant to
10 Health and Safety Code section 11055(d)(1) and a dangerous drug pursuant to Business and
11 Professions Code section 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Conviction of Substantially Related Crime)**

14 22. Respondent is subject to disciplinary action under Code sections 490 and
15 4301, subdivision (1), in conjunction with California Code of Regulations, title 16, section 1770,
16 on the grounds of unprofessional conduct, in that on or about May 13, 2005, Respondent was
17 convicted of a crime substantially related to the qualifications, functions or duties of a licensee,
18 as follows:

19 a. On or about May 13, 2005, in a criminal proceeding entitled *The People of*
20 *the State of California v. Lisa Ann Kesler* in Kern County Superior Court, Metropolitan Justice
21 Building, Case No. BM668119A, Respondent was convicted on a plea of *nolo contendere* for
22 violating Vehicle Code section 23103.5(a) (plea to violation of Veh. Code, § 23103 [reckless
23 driving] in lieu of Veh. Code, § 23153 [DUI factual basis]), a misdemeanor.

24 b. The circumstances surrounding the conviction are that on or about
25 December 15, 2004, California Highway Patrol officers observed Respondent driving a vehicle
26 with a child unsecured by safety belts. Respondent admitted to the officers that she had taken
27 Vicodin, a controlled substance and dangerous drug. Respondent tested positive for
28 amphetamines and opiates: phentermine, codeine, morphine, hydrocodone (Vocodin) and

1 hydromorphone.

2 **SECOND CAUSE FOR DISCIPLINE**

3 **(Dangerous Use of Controlled Substance)**

4 23. Respondent is subject to disciplinary action under Code section 4301,
5 subdivision (h), in that Respondent used dangerous drug/controlled substance to the extent or in a
6 manner as to be dangerous or injurious to herself, or to any other person or to the public. The
7 circumstances are as described in paragraph 22 above, which is incorporated herein by reference.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Commission of Acts Involving
10 Moral Turpitude, Dishonesty, Fraud, Deceit)**

11 24. Respondent is subject to disciplinary action under Code section 4301,
12 subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud,
13 deceit, or corruption, as follows:

14 a. On or about April 21, 2007, while working as a pharmacist at Rite Aid
15 Pharmacy, Tehachapi (42591), Respondent diverted controlled substances and dangerous drugs
16 from the pharmacy for her own use. These drugs included hydrocodone/acetaminophen
17 (Vicodin, Norco), Ibuprofen, Dextroamphetamine, Phentermine, Levoquin, Lidocaine ointment
18 and Locoid (hydrocortisone) ointment.

19 b. On or about April 21, 2007, upon being questioned by police officers
20 about the stolen drugs, Respondent provided the officers with false identity regarding her name,
21 date of birth and home address. Respondent also misrepresented to the officers that she had
22 prescriptions for the tubes of ointment found in her possession.

23 c. On or about June 16, 2004, in Case No. BM654645A, Respondent was
24 convicted on her plea of *nolo contendere* for violating Penal Code section 488 (petty theft), a
25 misdemeanor, in the criminal proceeding entitled *The People of the State of California v. Lisa*
26 *Anne Kesler*, Kern County Superior Court, Metropolitan Justice Building. The Court deferred
27 entry of the judgment.

28 ///

1 d. The circumstances are that on or about May 1, 2004, Respondent was
2 arrested for stealing merchandise worth a value of approximately \$24.00 from Wal-Mart.

3 e. On or about September 2, 2003, in Case No. CC257243, Respondent was
4 convicted on her plea of *nolo contendere* for violating Health and Safety Code section 11350(a)
5 (possession of a controlled substance - Vicodin), a felony, and Penal Code section 490.1 (petty
6 theft of value less than \$50), an infraction, in the criminal proceeding entitled *The People of the*
7 *State of California v. Lisa Anne Kesler aka Lisa Anne Kesler*, Santa Clara County Superior
8 Court. The Court deferred entry of the judgment.

9 f. The circumstances are that on or about August 1, 2002, Respondent was
10 arrested for stealing toys and produce worth a value of approximately \$38.18 from Albertson's in
11 San Jose. During an inventory search of Respondent's personal property, the officers found
12 unmarked prescription bottles containing various marked pills and tablets of phentermine,
13 Vicodin, and others. Respondent admitted she had no prescription for these drugs.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Violation of Statutes Governing Dangerous Drugs/Controlled Substances)**

16 25. Respondent is subject to disciplinary action under Code section 4301,
17 subdivisions (j) and (o) for violating Code sections 4059, subdivision (a) and 4060, in that
18 Respondent possessed and furnished to herself dangerous drugs and controlled substances
19 without a valid prescription. The circumstances are as set forth in paragraph 24 (a) above, and
20 incorporated herein by reference.

21 ///

22 ///

23 ///

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25 ///

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1 PRAYER

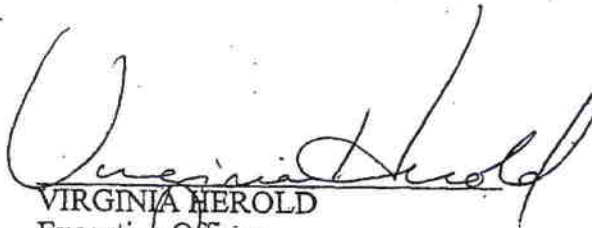
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Pharmacist License No. RPH 47276, issued to
5 Lisa Anne Panab a.k.a. Lisa Anne Kesler a.k.a. Lisa Ann Kesler a.k.a. Lisa Aanne Kesler.

6 2. Ordering Lisa Anne Panab to pay the Board of Pharmacy the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3;

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

10
11 DATED: 12/18/07

12
13 

14 VIRGINIA HEROLD
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California

19 Complainant
20

21 LA2006602093
22 10/12/07 lls
23
24
25
26
27
28

Exhibit 3

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

In the Matter of the First Amended Accusation
Against:

LISA ANNE PANAB
a.k.a. LISA ANNE KESLER
a.k.a. LISA ANN KESLER
a.k.a. LISA AANNE KESLER
13061 Rosedale Highway #182
Bakersfield, CA 93312

Pharmacist License No. RPH 47276

Respondent.

Case No. 3050

OAH No. L-2007060143

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by
the Board of Pharmacy as its Decision in this matter.

This Decision shall become effective on June 27, 2008.

It is so ORDERED May 28, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

Exhibit 4



Nevada State Board of Pharmacy Renewal Application PHARMACIST

431 W Plumb Lane • Reno, NV 89509 • (775) 850-1440

For the period of November 1, 2009 to October 31, 2011

\$150.00 if postmarked on or before 10/31/2009

\$275.00 if postmarked after 10/31/2009

LICENSE #: 12258

Annalisa Hagh

PO BOX 2143

Santa Clara, CA 95055

Please make any changes to name or address next to the old information

RENEW BY MAIL

1. Complete this form
2. Sign and date this form
3. Attach payment to this form
4. Mail form and payment to address above

<OR>

RENEW ONLINE

1. Go to <http://bop.nv.gov>
2. Click "Renewal of License" button
3. Follow instructions
4. Use **LOGIN ID: ul861a13**
PASSWORD: lgamc962

Section 1: Since your last renewal or recent licensure have you: (Please fill in completely) Yes No

Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or

Physical condition that would impair your ability to perform the essential functions of your license? ☐ Yes ☒ No

1. Been charged, arrested or convicted of a felony or misdemeanor in any state? ☐ Yes ☒ No
2. Been the subject of an administrative action whether completed or pending in any state? ☐ Yes ☒ No
3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state? ☐ Yes ☒ No

If you marked **YES** to any of the numbered questions (1-3) above, please include the following information:

Board Administrative Action:	State	Date:	Case #:		
		/ /			
Criminal Action:	State	Date:	Case #:	County	Court
		/ /			

Section 2: Yes No

Are you the subject of a court order for the support of a child? ☐ Yes ☒ No

If you marked **YES** to the question, above are you in compliance with the court order? ☐ Yes ☒ No

Section 3: Payment Type: ☐ Cash ☐ Check ☒ Money Order
Amount Enclosed: ☒ \$150.00 (on-time) ☐ \$275.00 (LATE)

Section 4: Please check ONE box ONLY (Fees apply to either status)

Active - ☒ By checking this box you certify that you have completed ALL required CE Hours due for the 09/11 Renewal period (Dated from Nov. 1, 07 – Oct. 31, 09; 1.25hrs per month). The exemption period is 2yrs after graduation only.

Inactive - ☐ By checking this box you certify that you are **NOT** practicing in NV and would like your license changed to inactive status. Before re-activating your license it will be necessary to become compliant with current CE requirements (NAC 639.219). See reverse of insert for more information.

Section 5: It is a violation of Nevada Statute to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application. I certify that all statements made are true and correct.

Signature: Annalisa Hagh

Date: 10/15/09

Exhibit 5

1 KAMALA D. HARRIS
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
1515 Clay Street, 20th Floor
5 Post Office Box 70550
Oakland, California 94612-0550
6 Telephone: (510) 622-2143
Facsimile: (510) 622-2270
7 Attorneys for Complainant

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

11 In the Matter of the First Amended Accusation
and Petition to Revoke Probation Against:

Case Number 4493

**FIRST AMENDED ACCUSATION AND
PETITION TO REVOKE PROBATION**

12 **LISA ANNE PANAB**
13 a.k.a. Lisa Anne Kesler
a.k.a. Lisa Ann Kesler
14 a.k.a. Lisa Aanne Kesler
5178 Mowry Avenue, #2168
15 Fremont, California 94536

16 **Pharmacist License Number RPH 47276**

17 Respondent.

18
19 Complainant Virginia Herold alleges:

20 **PARTIES**

21 1. Complainant brings this first amended accusation and petition to revoke probation
22 solely in her official capacity as the Executive Officer of the Board of Pharmacy (Board),
23 Department of Consumer Affairs.

24 2. On or about August 4, 1994, the Board issued Pharmacist License Number RPH
25 47276 to respondent Lisa Anne Panab, a.k.a Lisa Anne Kesler, a.k.a. Lisa Ann Kesler, a.k.a. Lisa
26 Aanne Kesler. This pharmacist license was in full force and effect at all times relevant to the
27 charges brought in this first amended accusation and petition to revoke probation, and will expire
28 on September 30, 2015, unless renewed.

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1 or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
2 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,
3 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-
4 midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with
5 the name and address of the supplier or producer."

6 8. Section 4300 states in part:

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

8 9. Section 4300.1 states:

9 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
10 operation of law or by order or decision of the board or a court of law, the placement of a license
11 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
12 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
13 proceeding against, the licensee or to render a decision suspending or revoking the license."

14 10. Section 4301 states in part:

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

19 ...

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

23 ...

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

26 ...

27 "(l) The conviction of a crime substantially related to the qualifications, functions, and
28 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

1 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
2 substances or of a violation of the statutes of this state regulating controlled substances or
3 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
4 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
5 The board may inquire into the circumstances surrounding the commission of the crime, in order
6 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
7 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
8 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
9 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
10 of this provision. The board may take action when the time for appeal has elapsed, or the
11 judgment of conviction has been affirmed on appeal or when an order granting probation is made
12 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
13 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
14 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
15 indictment.

16 ...

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

21 11. Section 4304 states:

22 "The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for
23 any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of
24 Division 104 of the Health and Safety Code."

25 12. California Code of Regulations, title 16, section 1770, states:

26 "For the purpose of denial, suspension, or revocation of a personal or facility license
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
2 licensee or registrant to perform the functions authorized by his license or registration in a manner
3 consistent with the public health, safety, or welfare."

4 COST RECOVERY

5 13. Section 125.3 states in part:

6 "(a) Except as otherwise provided by law, in any order issued in resolution of a
7 disciplinary proceeding before any board within the department or before the Osteopathic
8 Medical Board, upon request of the entity bringing the proceedings, the administrative law judge
9 may direct a licensee found to have committed a violation or violations of the licensing act to
10 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case."

11 DRUGS

12 14. Hydrocodone is a Schedule II controlled substance pursuant to Health and Safety
13 Code section 11055, subdivision (b)(1)(I), and a dangerous drug within the meaning of Business
14 and Professions Code section 4022. It is used for the relief of pain.

15 FACTUAL BACKGROUND FOR FIRST AMENDED ACCUSATION

16 15. On October 21, 2012, loss prevention officers at Safeway in Santa Clara,
17 California, saw respondent put approximately \$53.00 of merchandise into her purse and leave the
18 store without paying for the items. Respondent first identified herself to the arresting police
19 officer as Anne Lynn Keller, and then by other false names.

20 16. Respondent had keys to a car. When the officer asked for her permission to search
21 the car, she said that it was not her car but she consented to a search. The officer found a purse in
22 the glove compartment. Inside the purse was respondent's driver's license, and five and one-half
23 loose pills of suspected Hydrocodone. The pills were not in a prescription bottle and respondent
24 could not produce a prescription for them.

25 17. Respondent was arrested and charged with petty theft (Pen. Code, §§ 484, 488),
26 false representation of identity to a police officer (Pen. Code, § 148.9.), and possession of a
27 controlled substance (Health & Saf. Code, § 11350, subd. (a)).

28 18. On or about May 29, 2013, in *The People of the State of California vs. Lisa Anne*

1 Kesler, Santa Clara County Superior Court Case Number C1243520, entitled respondent pled
2 guilty or no contest to false representation of identity to a police officer (Pen. Code, § 148.9.), a
3 misdemeanor, and was placed on probation.

4 **CAUSES FOR DISCIPLINE**

5 **FIRST CAUSE FOR DISCIPLINE**

6 **Criminal Conviction**

7 **Business and Professions Code section 490, subdivision (a)**

8 19. The allegations of paragraphs 15-18 are realleged and incorporated by reference as
9 if fully set forth.

10 20. Respondent has subjected her pharmacist license to discipline for being convicted
11 of a crime (Bus. & Prof. Code, § 490, subd. (a)). Respondent pled guilty or no contest to false
12 representation of identity to a police officer (Pen. Code, § 148.9.), a misdemeanor.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **Unprofessional Conduct – Criminal Conviction**

15 **Business and Professions Code section 4301, subdivision (I)**

16 21. The allegations of paragraphs 15-18 are realleged and incorporated by reference as
17 if fully set forth.

18 22. Respondent has subjected her pharmacist license to discipline for the
19 unprofessional conduct of being convicted of a crime (Bus. & Prof. Code, § 4301, subd. (I)).
20 Respondent pled guilty or no contest to false representation of identity to a police officer (Pen.
21 Code, § 148.9.), a misdemeanor.

22 **THIRD CAUSE FOR DISCIPLINE**

23 **Unprofessional Conduct – Act Involving Dishonesty, Fraud, Deceit, or Corruption**

24 **Business and Professions Code section 4301, subdivision (f)**

25 23. The allegations of paragraphs 15-18 are realleged and incorporated by reference as
26 if fully set forth.

27 24. Respondent has subjected her pharmacist license to discipline for the
28 unprofessional conduct of committing an act involving moral turpitude, dishonesty, fraud, deceit,
or corruption (Bus. & Prof. Code, § 4301, subd. (f)). Respondent used false names to identify
herself to a police officer, and subsequently was convicted of false representation of identity to a
police officer (Pen. Code, § 148.9.), a misdemeanor.

1 **FOURTH CAUSE FOR DISCIPLINE**
2 **Unprofessional Conduct – Act Involving Dishonesty, Fraud, Deceit, or Corruption**
3 **Business and Professions Code section 4301, subdivision (f)**

4 25. The allegations of paragraphs 15-18 are realleged and incorporated by reference as
5 if fully set forth.

6 26. Respondent has subjected her pharmacist license to discipline for the
7 unprofessional conduct of committing an act involving moral turpitude, dishonesty, fraud, deceit,
8 or corruption (Bus. & Prof. Code, § 4301, subd. (f)). Respondent stole merchandise from a
9 Safeway in Santa Clara, California.

10 **FIFTH CAUSE FOR DISCIPLINE**
11 **Unprofessional Conduct – Possession of Controlled Substance**
12 **Business and Professions Code sections 4060 and 4301, subdivisions (j) and (o)**

13 27. The allegations of paragraphs 15-18 are realleged and incorporated by reference as
14 if fully set forth.

15 28. Respondent has subjected her pharmacist license to discipline for the
16 unprofessional conduct of possession of a controlled substance (Bus. & Prof. Code, §§ 4060,
17 4301, subds. (j) & (o)). Respondent possessed five and one-half loose pills of suspected
18 Hydrocodone. The pills were not in a prescription bottle and respondent could not produce a
19 prescription for them.

20 **JURISDICTION FOR PETITION TO REVOKE PROBATION**

21 29. This petition to revoke probation is brought before the Board under the authority
22 of the following laws and probationary conditions. All section references are to the Business and
23 Professions Code unless otherwise indicated.

24 30. Section 4011 states:

25 "The board shall administer and enforce this chapter and the Uniform Controlled
26 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

27 31. Section 4300, states in part:

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

...

"(d) The board may initiate disciplinary proceedings to revoke or suspend any

1 probationary certificate of licensure for any violation of the terms and conditions of probation.
2 Upon satisfactory completion of probation, the board shall convert the probationary certificate to
3 a regular certificate, free of conditions."

4 32. Section 4300.1 states:

5 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
6 operation of law or by order or decision of the board or a court of law, the placement of a license
7 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
8 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
9 proceeding against, the licensee or to render a decision suspending or revoking the license."

10 33. Section 4304 states:

11 "The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for
12 any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of
13 Division 104 of the Health and Safety Code,"

14 34. At all times after the effective date of respondent's probation, Term and Condition
15 16 of the Disciplinary Order stated:

16 "Violation of Probation. If Respondent violates probation in any respect, the Board,
17 after giving Respondent notice and an opportunity to be heard, may revoke probation and carry
18 out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is
19 filed against respondent during probation, the Board shall have continuing jurisdiction and the
20 period of probation shall be extended, until the petition to revoke probation or accusation is heard
21 and decided.

22 "If Respondent has not complied with any term or condition of probation, the Board shall
23 have continuing jurisdiction over Respondent, and probation shall automatically be extended until
24 all terms and conditions have been satisfied or the Board has taken other action as deemed
25 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
26 to impose the penalty which was stayed."

27 35. On July 1, 2008, and December 15, 2009, the Board reviewed the terms and
28 conditions of the Disciplinary Order with respondent. After each meeting, respondent signed a

1 declaration confirming her understanding of those terms and conditions.

2 **CAUSES TO REVOKE PROBATION**

3 **FIRST CAUSE TO REVOKE PROBATION**

4 **Term and Condition 2**

5 **Failure to Report Arrest to the Board**

6 36. At all times after the effective date of respondent's probation, Term and Condition
7 2 of the Disciplinary Order stated:

8 "Obey All Laws. Respondent shall obey all state and federal laws and regulations
9 substantially related to or governing the practice of pharmacy.

10 "Respondent shall report any of the following occurrences to the Board, in writing, within
11 72 hours of such occurrence:

12 "an arrest or issuance of a criminal complaint for violation of any provision of the
13 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
14 laws;

15 "a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
16 criminal complaint, information or indictment;

17 "a conviction of any crime;

18 "discipline, citation, or other administrative action filed by any state and federal agency
19 which involves Respondent's license or which is related to the practice of pharmacy or the
20 manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or
21 control"

22 37. Respondent's probation is subject to revocation because she did not notify the
23 Board in writing within 72 hours after she was arrested on October 21, 2012, and charged with
24 violating, among other sections, Penal Code section 148.9.

25 **SECOND CAUSE TO REVOKE PROBATION**

26 **Term and Condition 4**

27 **Failure to Report to the Board**

28 38. At all times after the effective date of respondent's probation, Term and Condition
4 of the Disciplinary Order stated:

"Reporting to the Board. Respondent shall report to the Board quarterly. The report

1 shall be made either in person or in writing, as directed. Respondent shall state under penalty of
2 perjury whether there has been compliance with all the terms and conditions of probation. If the
3 final probation report is not made as directed, probation shall be extended automatically until
4 such time as the final report is made and accepted by the Board."

5 39. Respondent's probation is subject to revocation because on November 3, 2009, the
6 Board notified respondent to appear in person at a Board probation office conference on
7 November 17, 2009, to review the terms and conditions of her probation. The Board sent this
8 notification by first class and certified mail, and respondent received and signed for the certified
9 letter. Respondent failed to appear for the conference on November 17 and did not contact the
10 Board about her absence. On November 19, the Board spoke with respondent. Respondent stated
11 that she did not attend the office conference on November 17 and did not contact the Board about
12 her absence because she did not open the notification letter.

13 **THIRD CAUSE TO REVOKE PROBATION**

14 **Term and Condition 14**

Failure to Notify Employment Change

15 40. At all times after the effective date of respondent's probation, Term and Condition
16 14 of the Disciplinary Order stated:

17 "Notification of Employment/Mailing Address Change. Respondent shall notify the
18 Board in writing within 10 days of any change of employment. Said notification shall include the
19 reasons for leaving and/or the address of the new employer, supervisor or owner and work
20 schedule if known. Respondent shall notify the Board in writing within 10 days of a change in
21 name, mailing address or phone number."

22 41. Respondent's probation is subject to revocation because she was hired by a
23 pharmacy to work as a pharmacist on May 28, 2010. On July 16, 2012, she orally notified the
24 Board that she had been terminated from that employment on June 13, 2012.

25 **FOURTH CAUSE TO REVOKE PROBATION**

26 **Term and Condition 15**

Failure to Work Required Number of Hours

27 42. At all times after the effective date of respondent's probation, Term and Condition
28 15 of the Disciplinary Order stated:

1 **"Tolling of Probation.** Respondent shall work at least 40 hours in each calendar month
2 as a pharmacist and at least an average of 80 hours per month in any six consecutive months
3 following the 12-month suspension. Failure to do so will be a violation of probation. If
4 Respondent has not complied with this condition during the probationary term, and Respondent
5 has presented sufficient documentation of her good faith efforts to comply with this condition,
6 and if no other conditions have been violated, the Board, in its discretion, may grant an extension
7 of Respondent's probation period up to one year without further hearing in order to comply with
8 this condition."

9 43. Respondent's probation is subject to revocation because after her 12-month
10 suspension was completed in June 2009, respondent's only reported employment as a pharmacist
11 was from May 28, 2010 to June 13, 2012.

12 **FIFTH CAUSE TO REVOKE PROBATION**

13 **Term and Condition 18**

14 **Failure to Successfully Participate In and Complete the PRP**

15 44. At all times after the effective date of respondent's probation, Term and Condition
16 18 of the Disciplinary Order stated:

17 **"Rehabilitation Program - Pharmacists Recovery Program (PRP).** Within 30 days of
18 the effective date of this decision, Respondent shall contact the Pharmacists Recovery Program
19 for evaluation and shall successfully participate in and complete the treatment contract and any
20 subsequent addendums as recommended and provided by the PRP and as approved by the Board.
21 The costs for PRP participation shall be borne by the Respondent.

22 **"If Respondent is currently enrolled in the PRP, said participation is now mandatory and**
23 **is no longer considered a self-referral under Business and Professions Code section 4363, as of**
24 **the effective date of this decision. Respondent shall successfully participate in and complete her**
25 **current contract and any subsequent addendums with the PRP. Probation shall be automatically**
26 **extended until Respondent successfully completes her treatment contract. If Respondent is**
27 **terminated from the program, she shall be automatically suspended upon notice by the Board.**
28 **Respondent may not resume the practice of pharmacy until notified by the Board in writing. The**
Board shall retain jurisdiction to institute action to terminate probation for any violation of this

1 term."

2 45. Respondent's probation is subject to revocation because after she enrolled in
3 Maximus, the Board's approved provider of the PRP, on June 30, 2008, Maximus terminated
4 respondent from the PRP on February 7, 2013, as a public risk for non-compliance with its
5 program.

6 **PRAYER**

7 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
8 first amended accusation and petition to revoke probation, and that following the hearing, the
9 Board of Pharmacy issue a decision:

10 1. Revoking the probation that was granted by the Board of Pharmacy in Case
11 Number 3050 and imposing the disciplinary order that was stayed revoking Pharmacist License
12 Number RPH 47276 issued to Lisa Anne Panab, a.k.a Lisa Anne Kesler, a.k.a. Lisa Ann Kesler,
13 a.k.a. Lisa Aanne Kesler;

14 2. Revoking or suspending Pharmacist License Number RPH 47276 issued to Lisa
15 Anne Panab, a.k.a Lisa Anne Kesler, a.k.a. Lisa Ann Kesler, a.k.a. Lisa Aanne Kesler;

16 3. Ordering Lisa Anne Panab, a.k.a Lisa Anne Kesler, a.k.a. Lisa Ann Kesler, a.k.a.
17 Lisa Aanne Kesler, to pay the Board of Pharmacy the reasonable costs of the investigation and
18 enforcement of this case under Business and Professions Code section 125.3; and

19 4. Taking such other and further action as deemed necessary and proper.

20 DATED: 10/21/14

21 *Virginia Herold*
22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant
28

SF2012403171
90440810.doc

Exhibit 6

1
2
3
4
5
6
7
8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the First Amended Accusation
13 and Petition to Revoke Probation Against:

14 **LISA ANNE PANAB**
15 **5178 Mowry Ave. #2168**
16 **Fremont, California 94536**

17 **Pharmacist License No. RPH 47276,**

18 Respondent.

Case No. 4493
OAH No. 2015090917

DEFAULT DECISION AND ORDER

(Gov. Code, § 11520)

19 **FINDINGS OF FACT**

20 1. On or about September 9, 2013, complainant Virginia K. Herold, in her official
21 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer
22 Affairs, filed Accusation No. 4493 against respondent Lisa Anne Panab before the Board of
23 Pharmacy. The accusation is attached as exhibit A.)

24 2. On or about August 4, 1994, the Board issued Pharmacist License No. RPH 47276 to
25 respondent. The pharmacist license was in full force and effect at all times relevant to the charges
26 brought in Accusation No. 4493 and expired on September 30, 2015. The pharmacist license has
27 not been renewed.

28 ///

1 3. On or about October 1, 2013, respondent was served by Certified and First Class Mail
2 copies of Accusation and Petition to Revoke Probation No. 4493, Statement to Respondent,
3 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections
4 11507.5, 11507.6, and 11507.7) at respondent's address of record which is required to be reported
5 and maintained with the Board under Business and Professions Code section 4100. Respondent's
6 address of record was 5178 Mowry Avenue, #2168, Fremont, California 94536.

7 4. On or about November 4, 2014, respondent was served by Certified and First Class
8 Mail copies of the First Amended Accusation and Petition to Revoke Probation No. 4493, and
9 Supplemental Statement to Respondent at respondent's address of record which is required to be
10 reported and maintained with the Board under Business and Professions Code section 4100.
11 Respondent's address of record was 5178 Mowry Avenue, #2168, Fremont, California 94536.

12 5. Service of the Accusation and Petition to Revoke Probation No. 4493, and First
13 Amended Accusation and Petition to Revoke Probation No. 4493, were effective as a matter of
14 law under the provisions of Government Code section 11505, subdivision (c) and/or Business &
15 Professions Code section 124.

16 6. On or about October 21, 2013, respondent signed and returned a notice of defense
17 requesting a hearing in this matter. A notice of hearing was served by mail at respondent's
18 address of record and it informed her that an administrative hearing in this matter was scheduled
19 for January 25, 2016. Respondent failed to appear at that hearing.

20 7. Government Code section 11506 states in part:

21 (c) The respondent shall be entitled to a hearing on the merits if the respondent
22 files a notice of defense, and the notice shall be deemed a specific denial of all parts
23 of the accusation not expressly admitted. Failure to file a notice of defense shall
constitute a waiver of respondent's right to a hearing, but the agency in its discretion
may nevertheless grant a hearing.

24 8. California Government Code section 11520 states in part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the
26 hearing, the agency may take action based upon the respondent's express admissions
27 or upon other evidence and affidavits may be used as evidence without any notice to
28 respondent.

9. Pursuant to its authority under Government Code section 11520, the Board finds respondent is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits, and statements contained on file at the Board's offices regarding the allegations contained in the First Amended Accusation and Petition to Revoke Probation No. 4493, finds that the charges and allegations in the First Amended Accusation and Petition to Revoke Probation No. 4493, are separately and severally, found to be true and correct by clear and convincing evidence.

10. Taking official notice of its own internal records, it is determined that the reasonable costs for Investigation and Enforcement Business under Professions Code section 125.3 is \$5,657.50 as of January 21, 2016.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, respondent Lisa Anne Panab has subjected her Pharmacist License No, RPH 47276 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke respondent's pharmacist license based upon the following violations alleged in the First Amended Accusation which are supported by the evidence contained in the Default Decision Evidence Packet in this case:

- Criminal Conviction (Bus. & Prof. Code, § 490, subd. (a))
- Unprofessional Conduct – Criminal Conviction (Bus. & Prof. Code, § 4301, subd. (l))
- Unprofessional Conduct – Act Involving Dishonesty, Fraud, Deceit, or Corruption (Bus. & Prof. Code, § 4301, subd. (f)) (two violations)
- Unprofessional Conduct – Possession of Controlled Substance (Bus. & Prof. Code, §§ 4060, 4301, subs. (j) & (o))

4. The Board of Pharmacy is authorized to also revoke the probation that was granted by the Board of Pharmacy in Case No. 3050 and imposing the disciplinary order that was stayed revoking respondent's pharmacist license based upon the following violations alleged in the First

1 Amended Petition to Revoke Probation which are supported by the evidence contained in the
2 Default Decision Evidence Packet in this case:

- 3 • Failure to Report Arrest to the Board (Violation of Term and Condition 2)
- 4 • Failure to Report to the Board (Violation of Term and Condition 4)
- 5 • Failure to Notify Employment Change (Violation of Term and Condition 14)
- 6 • Failure to Work Required Number of Hours (Violation of Term and Condition 15)
- 7 • Failure to Successfully Participate In and Complete the PRP (Violation of Term and
8 Condition 18)

9 ORDER

10 IT IS SO ORDERED that Pharmacist License No. RPH 47276, issued to respondent Lisa
11 Anne Panab, is revoked.

12 Under Government Code section 11520, subdivision (c), respondent may serve a written
13 motion requesting that the Decision be vacated and stating the grounds relied on within seven (7)
14 days after service of the Decision on respondent. The agency in its discretion may vacate the
15 Decision and grant a hearing on a showing of good cause, as defined in the statute.

16 This Decision shall become effective at 5:00 p.m. on April 13, 2016.

17 It is so ORDERED on March 14, 2016.

18 BOARD OF PHARMACY
19 DEPARTMENT OF CONSUMER AFFAIRS
20 STATE OF CALIFORNIA

21 

22
23 By

24 Amy Gutierrez, Pharm.D.
25 Board President

26 90611231.DOC
27 DOJ Matter ID:SF2013901656

28 Attachment: Exhibit A

FILED

JUN 07 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ELIZABETH TURNBEAUGH, APRN
Certificate of Registration No. CS20256,

Respondents.

CASE NO. 17-058-CS-N

NOTICE OF INTENDED
ACTION AND ACCUSATION

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 453.241 and NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because, at the time of the events alleged herein, Respondent Elizabeth Turnbeaugh, APRN, Certificate of Registration No. CS20256, had a Controlled Substance Registration with the Board.

II.

NRS 453.256(2) states that “[a] controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only . . . [i]n an emergency . . . upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy.”

III.

Similarly, NAC 453.420 says that “[i]n an emergency situation, a pharmacist may dispense a controlled substance listed in schedule II upon receiving the oral authorization of a prescribing individual practitioner” under specific conditions articulated in the regulation. The regulation further states:

The prescribing practitioner, *within 72 hours* after authorizing an emergency oral prescription, *shall cause a written prescription* for the emergency quantity prescribed *to be delivered to the dispensing pharmacist*. The written prescription may be delivered to the pharmacist in

person or by mail. If the written prescription is delivered by mail, it must be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing.

NAC 453.420(2) (emphasis added.)

IV.

In March 2016, Board Staff began receiving notices indicating that Ms. Turnbeaugh was not providing CVS/Omnicare of Reno Nevada (CVS/Omnicare) with signed, written prescriptions within 72 hours after authorizing emergency oral schedule II controlled substance prescriptions.

V.

On April 20, 2016, Board Staff sent Ms. Turnbeaugh a letter informing her that Board Staff had received numerous complaints alleging that on multiple occasions she authorized an emergency oral prescription for a schedule II controlled substance without providing the pharmacy a subsequent written prescription. In the letter, Board Staff directed Ms. Turnbeaugh to provide the required written prescriptions to the pharmacy. The chart below summarizes the prescriptions that CVS/Omnicare attributed to Ms. Turnbeaugh, which she had failed to complete.

VI.

<i>Date Reported</i>	<i>Date Ordered</i>	<i>Prescriber</i>	<i>Rx Number</i>
3/31/2016	3/25/2016	Turnbeaugh, Elizabeth	R45947944
4/7/2016	3/30/2016	Turnbeaugh, Elizabeth	R46009421
4/7/2016	3/31/2016	Turnbeaugh, Elizabeth	R46018000
4/7/2016	3/31/2016	Turnbeaugh, Elizabeth	R46012879
4/7/2016	3/31/2016	Turnbeaugh, Elizabeth	R46025030
4/7/2016	4/1/2016	Turnbeaugh, Elizabeth	R46041479
4/25/2016	4/8/2016	Turnbeaugh, Elizabeth	R46123101
4/25/2016	4/8/2016	Turnbeaugh, Elizabeth	R46111670
4/25/2016	4/10/2016	Turnbeaugh, Elizabeth	R46140367

VII.

On November 15, 2016, Board Staff sent Ms. Turnbeaugh a second notice again notifying her that she is not in compliance with the law as to her emergency phoned-in schedule II controlled substance prescriptions. In the letter, Board Staff included an additional list of prescriptions that

CVS/Omnicare reported as incomplete since the April 20, 2016 letter. Board Staff again directed Ms. Turnbeaugh to provide the required written documentation to the pharmacy.

VIII.

As recently as May 24, 2017, Board Staff continued to receive complaints that Ms. Turnbeaugh is not providing written prescriptions for the emergency schedule II controlled substance prescriptions that she calls in to pharmacies within the 72 hour period required by law. To date, there are a total of fifty-nine (59) prescriptions CVS/Omnicare attributes to Ms. Turnbeaugh, which remain incomplete.

FIRST CAUSE OF ACTION

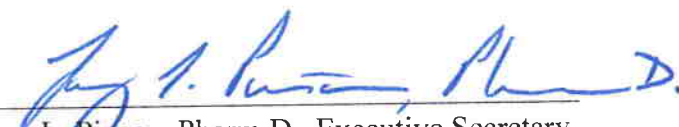
IX.

As a practitioner who is registered pursuant to Nevada Revised Statutes NRS 453.226 and NRS 453.231 and who failed to provide the dispensing pharmacy a written prescription within 72 hours after issuing up to fifty-nine (59) oral emergency prescriptions for a schedule II controlled substance, Ms. Turnbeaugh violated NRS 453.256(2)(a) and Nevada Administrative Code (NAC) 453.420(2). For each violation, if proven, Ms. Turnbeaugh is guilty of a category E felony pursuant to NRS 453.256(8).

Additionally, for each violation, Ms. Turnbeaugh's controlled substance registration is subject to suspension or revocation pursuant to NRS 453.236(1)(d) and NRS 453.231(1)(b) and (h), or other discipline pursuant to NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of the Respondent.

Signed this 7th day of June, 2017


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ELIZABETH TURNBEAUGH, APRN
Certificate of Registration No. , CS20256

Respondent.

CASE NO. 17-058-CS-N

STATEMENT TO THE
RESPONDENT NOTICE
OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. It is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has scheduled your hearing on this matter for Wednesday, September 6, 2017, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

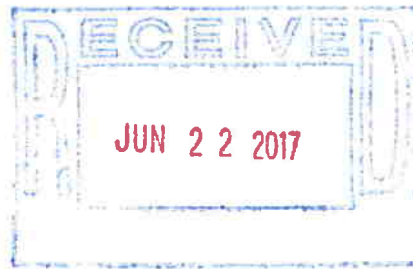
IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of June, 2017.



Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy



June 18, 2017

To Whom it May Concern:

This is a letter to inform the Board of Pharmacy that I have received the Notice of Intended Action and Accusation against me. I want to take this opportunity to apologize and explain myself. I don't recall getting the first notice from the Board in April 2016, but when I received the second notice I contacted Omnicare Pharmacy and they sent me follow-up prescriptions for the twenty-one listed, which I in turn faxed back. On June 13, 2017 I received this legal notice and I immediately contacted the pharmacy and have since faxed follow-up prescriptions for the nine newly listed.

I work in two skilled nursing facilities and every other weekend I cover a colleague who has two facilities. We are frequently getting new admissions from a local or outlying hospital or other skilled nursing facility who do not come in with prescriptions. When Omnicare Pharmacy contacts me for authorization I feel that it is an emergency as the patient may have pain or agitation.

I have been relying on the pharmacy to fax my follow-up prescriptions for my verbal orders to my facilities. Recently, it had come to my attention that they have been faxing verbal orders given by me for my colleague's patients to her facilities. This has since been corrected and they are now faxing to one of my facilities. I'm not trying to come up with excuses, but I want the Board to understand my work position and that I have not intentionally tried to ignore the requests by Omnicare Pharmacy or the Board of Pharmacy.

I would like to apologize and will maintain better documentation to ensure follow-up with Omnicare Pharmacy and provide written prescriptions in a timely manner. I will also be considering SureScripts (electronic prescribing). Thank you for your time concerning this matter.

Sincerely,

Elizabeth Turnbeaugh, APRN

FILED

JUN 22 2017

**NEVADA STATE BOARD
OF PHARMACY**

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ELIZABETH TURNBEAUGH, APRN
Certificate of Registration No. , CS20256

Respondent.

CASE NO. 17-058-CS-N

ANSWER AND NOTICE
OF DEFENSE

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That her objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against her, is hereby interposed on the following grounds: (State specific objections or insert "none"). *none*

FILED

JUN 22 2017

NEVADA STATE BOARD
OF PHARMACY

2. That, in answer to the Notice of Intended Action and Accusation, she admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 20 day of June, 2017.


ELIZABETH TURNBEAUGH, APRN

JUN 07 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

JENNIFER SNIDOW, APRN

Certificate of Registration No. CS20083

Respondents.

CASE NO. 17-059-CS-N

NOTICE OF INTENDED
ACTION AND ACCUSATION

Larry L. Pinson, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 453.241 and NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because, at the time of the events alleged herein, Respondent Jennifer Snidow, APRN, Certificate of Registration No. CS20083, had a Controlled Substance Registration with the Board.

II.

NRS 453.256(2) states that “[a] controlled substance included in schedule II may be dispensed without the written prescription of a practitioner only . . . [i]n an emergency . . . upon oral prescription of a practitioner, reduced to writing promptly and in any case within 72 hours, signed by the practitioner and filed by the pharmacy.”

III.

Similarly, NAC 453.420 says that “[i]n an emergency situation, a pharmacist may dispense a controlled substance listed in schedule II upon receiving the oral authorization of a prescribing individual practitioner” under specific conditions articulated in the regulation. The regulation further states:

The prescribing practitioner, *within 72 hours* after authorizing an emergency oral prescription, *shall cause a written prescription* for the emergency quantity prescribed *to be delivered to the dispensing pharmacist*. The written prescription may be delivered to the pharmacist

in person or by mail. If the written prescription is delivered by mail, it must be postmarked within the 72-hour period. Upon receipt, the dispensing pharmacist shall attach this prescription to the oral emergency prescription which had earlier been reduced to writing.

NAC 453.420(2) (emphasis added.)

IV.

In March 2016, Board Staff began receiving notices indicating that Ms. Snidow was not providing CVS/Omnicare of Reno Nevada (CVS/Omnicare) with signed, written prescriptions within 72 hours after authorizing emergency oral schedule II controlled substance prescriptions.

V.

On April 20, 2016, Board Staff sent Ms. Snidow a letter informing her that Board Staff had received numerous complaints alleging that on multiple occasions she authorized an emergency oral prescription for a schedule II controlled substance without subsequently providing the pharmacy a written prescription. In the letter, Board Staff directed Ms. Snidow to provide the required written prescriptions to the pharmacy. The chart below summarizes the prescriptions that CVS/Omnicare attributed to Ms. Snidow, which she had failed to complete.

VI.

<i>Date Reported</i>	<i>Date Ordered</i>	<i>Prescriber</i>	<i>Rx Number</i>
3/22/2016	3/1/2016	Snidow, Jennifer	R45621770
3/31/2016	3/18/2016	Snidow, Jennifer	R45851644
3/31/2016	3/23/2016	Snidow, Jennifer	R45914592
3/31/2016	3/23/2016	Snidow, Jennifer	R45914582
4/7/2016	3/31/2016	Snidow, Jennifer	R46017882
4/7/2016	3/31/2016	Snidow, Jennifer	R46017906
4/7/2016	4/1/2016	Snidow, Jennifer	R46033716

VII.

On November 15, 2016, Board Staff sent Ms. Snidow a second notice again notifying her that she is not in compliance with the law as to her emergency phoned-in schedule II controlled substance prescriptions. In the letter, Board Staff included an additional list of prescriptions that CVS/Omnicare reported as incomplete since the April 20, 2016 letter. Board Staff again directed Ms. Snidow to

provide the required written documentation to the pharmacy.

VIII.

As recently as May 24, 2017, Board Staff continued to receive complaints that Ms. Snidow is not providing written prescriptions for the emergency schedule II controlled substance prescriptions that she calls in to pharmacies within the 72 hour period required by law. To date, there are a total of thirty-nine (39) prescriptions CVS/Omnicare attributes to Ms. Snidow, which remain incomplete.

FIRST CAUSE OF ACTION

IX.

As a practitioner who is registered pursuant to Nevada Revised Statutes NRS 453.226 and NRS 453.231 and who failed to provide the dispensing pharmacy a written prescription within 72 hours after issuing up to thirty-nine (39) oral emergency prescriptions for a schedule II controlled substance, Ms. Snidow violated NRS 453.256(2)(a) and Nevada Administrative Code (NAC) 453.420(2). For each violation, if proven, Ms. Snidow is guilty of a category E felony pursuant to NRS 453.256(8).

Additionally, for each violation, Ms. Snidow's controlled substance registration is subject to suspension or revocation pursuant to NRS 453.236(1)(d) and NRS 453.231(1)(b) and (h), or other discipline pursuant to NRS 639.255.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of the Respondent.

Signed this 7th day of June, 2017


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

JENNIFER SNIDOW, APRN

Certificate of Registration No. CS20083

Respondent.

CASE NO. 17-059-CS-N

STATEMENT TO THE
RESPONDENT NOTICE
OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to a hearing before the Nevada State Board of Pharmacy to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. It is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Nevada State Board of Pharmacy within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.

III.

The Board has scheduled your hearing on this matter for Wednesday, September 6, 2017, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hyatt Place, 1790 East Plumb Lane, Reno, Nevada.

IV.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of June, 2017.



Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

NEVADA STATE BOARD
OF PHARMACY

Respondent.

))))))))) /

ANSWER AND NOTICE OF DEFENSE

1. That her objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against her, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, she admits, denies and alleges as follows:

I work in long term care facilities. I authorize emergency dispensing of narcotics on new admissions. I fill out the emergency dispense prescription from the pharmacy the day I receive it. If I have received the forms late from the pharmacy then my prescriptions may have been late. To rectify the situation I will begin to fax prescriptions to the pharmacy on new admissions rather than emergency dispense

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 7th day of ^{July}~~June~~, 2017.


JENNIFER SNIDOW, APRN