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Attorneys for Complainant

ORIGINAL

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

In the Matter of the Accusation Against: CRAIG BARRY PIVO, Original Pharmacist License No. RPH 41834, Respondent.	Case No. 2875 **STIPULATED SURRENDER OF LICENSE AND ORDER**

In the interest of a prompt and speedy resolution of this matter, consistent with the public interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs the parties hereby agree to the following Stipulated Surrender of License and Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation.

PARTIES

1. Patricia F. Harris (Complainant), Executive Officer of the Board of Pharmacy, has brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Susan Melton Wilson, Deputy Attorney General.

2. CRAIG BARRY PIVO (Respondent) is represented by Law Offices of Bonne, Bridges, Mueller, O'Keefe & Nichols, by Peter R. Osinoff, Attorney at Law.

3. On or about August 2, 1988, the Board of Pharmacy issued Original Pharmacist License No. RPH 41834 to Craig Barry Pivo (Respondent). The Original Pharmacist

License was in full force and effect at all times relevant to the charges brought herein. The license expired on December 31, 2005 and has not been renewed.

ADVISEMENT AND WAIVERS

4. Respondent has carefully read, and understands the charges and allegations in Accusation No. 2875. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

5. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his 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.

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

CULPABILITY

7. Respondent understands and agrees that the charges and allegations of the Accusation, if proven at hearing, constitute cause for imposing discipline upon his pharmacist license. For the purpose of resolving Accusation No. 2875 without the expense and uncertainty of further proceedings, Respondent agrees that, at hearing, Complainant could establish a factual basis for the First Cause for Discipline. Accordingly. Respondent hereby gives up his right to contest all charges of the Accusation, agrees that cause exists for discipline, and hereby surrenders his Original Pharmacist License No. RPH 41834 for the Board's formal acceptance.

8. Respondent understands that by signing this stipulation he is enabling the Board to issue its order accepting the surrender of Original Pharmacist License No. RPH 41834 without further process. Upon acceptance of the stipulation by the Board, Respondent understands that he will no longer be permitted to practice as a licensed pharmacist in California.

CONTINGENCY

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

10. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

11. In consideration of the foregoing admissions and stipulations, the parties agree that the (Board) may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 41834, issued to Respondent CRAIG BARRY PIVO is surrendered and accepted by the Board of Pharmacy .

12. The surrender of Respondent's Original Pharmacist License No. RPH 41834 and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

13. Respondent shall lose all rights and privileges as a licensed Pharmacist in California as of the effective date of the Board's Decision and Order.

14. Respondent shall relinquish and cause to be delivered to the Board both his wall and pocket renewal license to the Board on or before the effective date of the Decision

and Order.

15. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 2794 shall be deemed to be admitted by Respondent when the Board determines whether to grant or deny the application or petition.

16. Respondent shall pay the Board its costs of investigation and enforcement in the amount of Four Thousand, Two Hundred Fifty ($4,250.00) Dollars prior to issuance of a new or reinstated license.

17. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board of Pharmacy's Decision and Order.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Original Pharmacist License No. RPH 41834, I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy .

DATED: 6-13-06.

CRAIG BARRY PIVO
Respondent

I concur in the Stipulation to Surrender of License, Decision and Order.

DATED: 7/10/06.

Bonne, Bridges, Mueller, O'Keefe & Nichols
By: PETER R. OSINOFF
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 7-14-06.

BILL LOCKYER, Attorney General
of the State of California

SUSAN MELTON WILSON
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number/Matter ID: 03579110-LA2003500152 60116547.wpd

BEFORE THE

BOARD OF PHARMACY

DEPARTMENT OF CONSUMER AFFAIRS

STATE OF CALIFORNIA

In the Matter of the Accusation Against: CRAIG BARRY PIVO, Original Pharmacist License No. RPH 41834, Respondent.	Case No. 2875

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy , Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 15, 2006.

It is so ORDERED October 16, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

Exhibit A

Accusation No. 2875

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of the State of California
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Attorneys for Complainant

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

In the Matter of the Accusation Against: CRAIG BARRY PIVO 8283 Grove Avenue, 105 Rancho Cucamonga, CA 91730 Original Pharmacist License No. RPH 41834 Respondent.	Case No. 2875 **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 2, 1988, the Board of Pharmacy issued Original Pharmacist License No. RPH 41834 to Craig Barry Pivo (Respondent). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2005, unless renewed.

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JURISDICTION

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

4. Business and Professions Code section 118, subdivision (b) states:

"The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

5. Section 4300 of the Code provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

6. Section 4301 of the Code states:

"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.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to

the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

. . . .

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

. . . .

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

"(p) Actions or conduct that would have warranted denial of a license.

7. Health and Safety Code section 11170 provides: "no person shall prescribe, administer, or furnish a controlled substance for himself."

8. Health and Safety Code section 11173, subdivision (b), states:

"No person shall make a false statement in any prescription, order, report, or record, required by this division."

9. Section 125.3, subdivision (a), states, in pertinent part:

"Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . 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."

10. <u>CONTROLLED SUBSTANCES</u>

A. Oxycodone is a Schedule II control substance as designated by Health and Safety Code section 11055(b)(1) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

B. Vicodin, a brand name for Hydrocodone and Acetaminophen, is a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4)

and categorized as a dangerous drugs pursuant to Code section 4022 (c).

FIRST CAUSE FOR DISCIPLINE

(Administer, Furnish a Controlled Substance to Oneself)

11. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivisions (j), (o) and (p), on the grounds of unprofessional conduct for violating Health and Safety Code section 11170 in that Respondent administered or furnished controlled substances to himself. The circumstances are as follows:

a. On or about January 2004, Respondent entered the Board's Pharmacists Recovery Program ("Program") as a self-referral.

b. On or about May 6, 2004, Maximus, a Program clinic, administered a drug screen test to Respondent.

c. On or about May 8, 2004, the screen test results were positive for 'Medical Opiate" and the narcotic drugs Oxycodone and Oxymorphone. Respondent had no prescription for either drug.

d. By his own admissions of May 24, 2004, Respondent diverted "20 mg of Oxycontin and two (regular strength) Vicodin" from drug stocks at the pharmacy facility he owns in May of 2004. Respondent then self-administered these substances, leading to the positive drug screen on May 8, 2004.

SECOND CAUSE FOR DISCIPLINE

(Fraudulent Acts)

12. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivisions (f), (g) and (p), of the Code on the grounds of unprofessional conduct in that Respondent knowingly falsified and submitted fraudulent attendance verifications as proof of attendance at Alcoholic Anonymous/Narcotic Anonymous meetings. The circumstances are as follows:

a. On or about January 1, 2004, Respondent entered the Pharmacists Recovery Program as a self-referral.

b. By his own admission, Respondent submitted falsified attendance

verification cards to Maximus, a Program clinic, to support false claims that he had attended numerous Alcoholic Anonymous/Narcotic Anonymous meetings in January and June of 2004, in compliance with Program requirements.

c. The falsified verification card for January 2004 shows sixteen (16) dated entries signed by "M. Rivera."

d. The falsified verification card for June 2004 shows eighteen (18) dated entries signed by "M.Rivera."

e. "M.Rivera" is not associated with a legitimate recovery program, but an employee of Respondent who falsified the card at his request.

PRAYER

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

1. Revoking or suspending Original Pharmacist License No. RPH 41834, issued to Craig Barry Pivo.

2. Ordering Craig Barry Pivo to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 7/25/05

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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CML (07/01/2005)