

# ERRATA

## Corrections to Stipulated Revocation of License and Order and Exhibit A Accusation/Petition to Revoke Probation No. 2949

Stipulated Revocation of License and Order and Exhibit A, the Accusation/Petition to Revoke Probation No. 2949, contains references to Pharmacist License No. RPH 49485 in the underlying disciplinary action entitled "In the Matter of the Accusation against Cesar B. Cabrera" which, pursuant to a decision of the Board of Pharmacy effective May 27, 2005, revoked Respondent's Pharmacist License but stayed revocation in favor of probation for five (5) years. Those references mistakenly use Pharmacist License No. RPH 49485 rather than Pharmacist License No. RPH 41132. This clerical error is hereby corrected as part of the Board's Stipulated Revocation of License and Order. This Errata page shall become part of Respondent's disciplinary history with the Board. For the purposes of correcting the record, the following changes are hereby made to the Stipulated Revocation of License and Order and Exhibit A:

### Stipulated Revocation of License and Order:

Page 1, Line 17: Substitute "41132 " for "49485"

Page 2, Line 4: Substitute "41132 " for "49485"

Page 3, Line 24: Substitute "41132 " for "49485"

### Exhibit A

Page 1, Line 15: Substitute "41132 " for "49485"

Page 1, Line 23: Substitute "41132 " for "49485"

Page 6, Line 6: Substitute "41132 " for "49485"

Page 6, Line 7: Substitute "41132 " for "49485"

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9 Attorneys for Complainant

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

13 In the Matter of the Petition to Revoke Probation  
14 Against:

15 CESAR B. CABRERA  
31921 Old Hickory Road  
16 Trabuco Canyon, CA 92679

17 Pharmacist License No. 49485

18 Respondent.

Case No. 2949

OAH No. L 2006070432

**STIPULATED REVOCATION OF  
LICENSE AND ORDER**

19  
20 In the interest of a prompt and speedy resolution of this matter, consistent with the  
21 public interest and the responsibility of the Board of Pharmacy (Board), the parties hereby agree  
22 to the following Stipulated Revocation of License and Order which will be submitted to the  
23 Board for approval and adoption as the final disposition of the Petition.

24 **PARTIES**

25 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of  
26 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
27 by Bill Lockyer, Attorney General of the State of California, by James M. Ledakis, Deputy  
28 Attorney General.



1 CULPABILITY

2 8. Respondent understands that the charges and allegations in Petition No.  
3 2949, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist  
4 License.

5 9. For the purpose of resolving the Petition without the expense and  
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
7 establish a factual basis for the charges in the Petition and that those charges constitute cause for  
8 discipline. Respondent hereby gives up his right to contest that cause for discipline exists based  
9 on those charges.

10 10. Respondent understands that by signing this stipulation he enables the  
11 Board to order the Revocation of his Pharmacist License without further process.

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

20 13. In consideration of the foregoing admissions and stipulations, the parties  
21 agree that the Board may, without further notice or formal proceeding, issue and enter the  
22 following Order:

23 ORDER

24 IT IS HEREBY ORDERED that Pharmacist License No. 49485, issued to  
25 Respondent CESAR B. CABRERA is revoked and accepted by the Board.

26 14. The Revocation of Respondent's Pharmacist License and the acceptance of  
27 the revoked license by the Board shall constitute the imposition of discipline against Respondent.  
28 This stipulation constitutes a record of the discipline and shall become a part of Respondent's

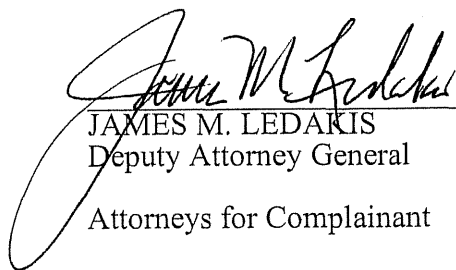


**ENDORSEMENT**

The foregoing Stipulated Revocation of License and Order is hereby respectfully submitted for consideration by the Board.

DATED: December 6, 2006

BILL LOCKYER, Attorney General  
of the State of California

  
\_\_\_\_\_  
JAMES M. LEDAKIS  
Deputy Attorney General  
Attorneys for Complainant

DOJ Matter ID: SD2005800300  
Stipulated Revocation.wpd

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

In the Matter of the Petition Against:

CESAR B. CABRERA  
31921 Old Hickory Road  
Trabuco Canyon, CA 92679

Pharmacist License No. 49485

Respondent.

Case No. 2949

OAH No. L 2006070432

**DECISION AND ORDER**


The attached Stipulated Revocation of License and Order is hereby adopted by the Board, as its Decision in this matter.

This Decision shall become effective on February 21, 2007.

It is so ORDERED January 22, 2007.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



WILLIAM POWERS  
Board President

**Exhibit A**  
**Petition No. 2949**



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of the State of California  
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7 Attorneys for Complainant  
8

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

12 In the Matter of the Accusation Against:

Case No. 2949

13 CESAR B. CABRERA

14 31921 Old Hickory Road  
Trabuco Canyon, CA 92679  
15 Pharmacist No. RPH 49485

**PETITION TO REVOKE  
PROBATION**

16 Respondent.  
17

18 Complainant alleges:

19 **PARTIES**

20 1. Patricia F. Harris (Complainant) brings this Petition to Revoke Probation  
21 solely in her official capacity as the Executive Officer of the Board of Pharmacy.

22 2. On or about August 18, 1987, the Board issued Pharmacist No. RPH  
23 49485 to CESAR B. CABRERA (Respondent). Said license will expire on December 31, 2006,  
24 unless renewed.

25 3. In a disciplinary action entitled "In the Matter of the Accusation Against  
26 Cesar B. Cabrera," Case No. 2777, the Board issued a decision, effective March 5, 2005, in  
27 which Respondent's Pharmacist license was revoked. However, the revocation was stayed and  
28 Respondent's pharmacist license was placed on probation for a period of five (5) years with

1 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated  
2 by reference.

### 3 JURISDICTION

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

7 5. Section 4300 of the Code states:

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

9 (d) The board may initiate disciplinary proceedings to revoke or suspend  
10 any probationary certificate of licensure for any violation of the terms and conditions of  
11 probation. Upon satisfactory completion of probation, the board shall convert the  
12 probationary certificate to a regular certificate, free of conditions.

13 6. Section 4301 of the Code states:

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

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

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

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

### 29 Facts:

30 9. On January 8, 2003, respondent was arrested by the Orange County  
31 Sheriff's Department for possession for sale of Hydrocodone, which he admitted stealing from

1 his employer in Long Beach, California. On December 18, 2003, respondent pled guilty to  
2 felony possession for sale of Hydrocodone. He was sentenced to serve 90 days in jail, pay  
3 \$400.00 in restitution, complete a one year outpatient drug treatment, and given three years  
4 probation.

5 10. On July 27, 2004, the Board filed an Accusation against respondent for a  
6 conviction substantially related his licensure as a pharmacist.

7 11. On December 27, 2004, respondent signed a stipulated settlement placing  
8 his license on five years probation with suspension and other terms and conditions.

9 12. On February 4, 2005, the Board adopted the stipulated agreement with  
10 respondent to be effective March 5, 2005. On March 8, 2005, respondent appeared at his  
11 probation conference to review all the terms and conditions of his probation, including his  
12 suspension from pharmacy practice from March 5, 2005 through June 4, 2005.

13 13. As part of the Pharmacists Recovery Program Treatment Contract,  
14 respondent agreed to be bound by the terms of the program. As part of his recovery, respondent  
15 agreed to the following:

- 16 a. Abstain from the use of alcohol and all other mind altering drugs;  
17 b. Return to work as a pharmacist up to 24 hours per week;  
18 c. Not work in a pharmacy where a family member is employed;  
19 d. Be supervised 75% of each work week by another licensed pharmacist;  
20 e. Not supervise others, act a Pharmacist in Charge, Manager or preceptor  
to interns or new employees;  
f. Report all relapses to Maximus and cease practice upon relapse;  
g. Understand that he could be terminated from the PRP for failure to  
comply with the contract.

21 14. On June 27, 2005 and July 6, 2005, respondent tested positive for alcohol.  
22 On July 6, 2005, respondent denied alcohol use and denied knowing that the PRP Program  
23 prohibited alcohol use. Finally, he admitted to drinking. Maximus verbally suspended  
24 respondent from the practice of pharmacy and told him to leave work.

25 15. Maximus advised respondent that he did not have a work-site monitor in  
26 place and that he had not completed the work-site monitor paperwork. Respondent was advised  
27 that his current work place, Home Care Pharmacy in Riverside, violated his PRP contract  
28 because his wife was the Pharmacist in Charge. Later, respondent was notified in writing that he

1 returned to work at Home Care Pharmacy without notification to Maximus; continued to work at  
2 Home Care Pharmacy where his wife was the Pharmacist in Charge, which was in conflict with  
3 his PRP contract; and that continued violations could result in his termination from the PRP  
4 Program due to non-compliance. Respondent was ordered to enter an inpatient residential  
5 chemical dependency treatment program for 30 days treatment.

6 16. On July 8, 2005, respondent was working at Home Care Pharmacy, and  
7 was the only pharmacist present. There were two pharmacy technicians present. The Board  
8 confronted respondent with working in violation of his probation, and working in violation of his  
9 suspension. Respondent had a key to the pharmacy.

10 17. Maximus notified the Board that respondent had been terminated from the  
11 Pharmacists' Recovery Program effective July 13, 2005 for these violations:

- 12 a. Tested positive for alcohol on June 27, 2005 and July 5, 2006;
- 13 b. Returned to work without a work site monitor agreement in place with  
a licensed pharmacist;
- 14 c. Returned to work where a relative worked;
- 15 d. Failed to enter inpatient chemical dependency treatment;
- 16 e. Returned to work after relapse;
- 17 f. Returned to work after suspension by Maximus;
- 18 g. Non compliance with PRP Contract.

19 18. On July 14, 2005, the Board sent respondent a letter informing him that his  
20 license was suspended due to his termination from the PRP program. Respondent was advised  
21 not to enter any pharmacy during his suspension and not to practice pharmacy.

22 19. On August 11, 2005, the Board advised respondent that he failed to  
23 reimburse the Board its costs per the Board decision.

24 20. On October 6, 2005, the Board inspected Home Care Pharmacy and  
25 discovered that respondent was the only pharmacist on duty at the store. Respondent was  
26 confronted by the Board, but he had no excuses for working in violation of the Board's prior  
27 order suspending him for 90 days. Respondent worked on the following dates in violation of the  
28 90 day suspension: March 7, 10, 21, 2005; April 13, 16, 2005; May 16, 20, 26, 31, 2005; and  
June 3, 2005.

1 **FIRST CAUSE TO REVOKE PROBATION**

2 **(Suspension Period)**

3 21. At all times after the effective date of Respondent's probation, Condition  
4 No. 1 stated: Respondent shall be suspended from the practice of pharmacy for a period of 90  
5 days.

6 22. Respondent's probation is subject to revocation because he failed to  
7 comply with Probation Condition No. 1, as set forth in paragraphs 9 through 20 above, that is, he  
8 continued to work during his 90 day suspension.

9 **SECOND CAUSE TO REVOKE PROBATION**

10 **(Reimbursement of Board Costs)**

11 23. At all times after the effective date of Respondent's probation, Condition  
12 No. 7 stated: Respondent shall reimburse the Board its costs.

13 24. Respondent's probation is subject to revocation because he failed to  
14 comply with Probation Condition No. 7, as set forth in paragraphs 9 through 20 above.

15 **THIRD CAUSE TO REVOKE PROBATION**

16 **(Rehabilitation Program)**

17 25. At all times after the effective date of Respondent's probation, Condition  
18 No. 15 stated: Respondent shall comply with the terms of the Pharmacists' Recovery Program.

19 26. Respondent's probation is subject to revocation because he failed to  
20 comply with Probation Condition No. 15, as set forth above in paragraphs 9 through 20.

21 **FOURTH CAUSE TO REVOKE PROBATION**

22 **(Abstain from Drugs and Alcohol)**

23 27. At all times after the effective date of Respondent's probation, Condition  
24 No. 17 stated: Respondent shall not use alcohol or drugs.

25 28. Respondent's probation is subject to revocation because he failed to  
26 comply with Probation Condition No. 17, as set forth in paragraphs 9 through 20.

27 /

28 /

1 PRAYER


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

4 1. Revoking the probation that was granted by the Board of Pharmacy in  
5 Case No. 2777 and imposing the disciplinary order that was stayed thereby revoking Pharmacist  
6 license no. RPH 49485 issued to CESAR B. CABRERA;

7 2. Revoking or suspending Pharmacist license no. RPH 49485, issued to  
8 CESAR B. CABRERA;

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

10  
11 DATED: 4/21/06

12  
13   
14 \_\_\_\_\_  
15 PATRICIA F. HARRIS  
16 Executive Officer  
17 Board of Pharmacy  
18 State of California  
19 Complainant

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