

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

In the Matter of the Accusation Against:

Case No. 3387

PHILIP KOERPEL

42 Rossi Ave
San Francisco, CA 94118

Pharmacist License No. RPH 39167

Respondent.

DECISION AND ORDER

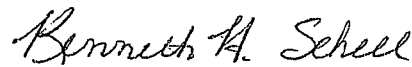
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 18, 2010.

It is so ORDERED on January 19, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Amended Accusation
11 Against:

Case No. 3387

12 **PHILIP MARTIN KOERPEL**
42 Rossi Avenue
13 San Francisco, California 94118
14 Pharmacist License No. 39167

OAH No. 2009040386

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

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

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Edmund
23 G. Brown Jr., Attorney General of the State of California, by Char Sachson, Deputy Attorney
24 General.

25 2. Respondent Philip Martin Koerpel (Respondent) is represented in this proceeding
26 by attorney Jonathan A. Klein, whose address is 44 Montgomery Street, Suite 2500, San
27 Francisco, CA 94104.
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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Amended Accusation No. 3387.

9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees to be bound by the Board of Pharmacy (Board)'s imposition of discipline as set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

10. Respondent Philip Martin Koerpel has never been the subject of any disciplinary action. He is admitting responsibility at an early stage in the proceedings.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. 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 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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

1 13. In consideration of the foregoing admissions and stipulations, the parties agree that
2 the Board may, without further notice or formal proceeding, issue and enter the following
3 Disciplinary Order:

4 DISCIPLINARY ORDER

5 IT IS HEREBY ORDERED that Pharmacist License No. 39167 issued to Respondent
6 Philip Martin Koerpel (Respondent) is revoked. However, the revocation is stayed and
7 Respondent is placed on probation for five (5) years on the following terms and conditions.

8 1. **Actual Suspension.** Pharmacist License number 39167, issued to Respondent
9 Philip Martin Koerpel is suspended for a period of sixty (60) days. Upon provision of
10 documentation showing to the satisfaction of the Board or its designee that at any time since
11 January 1, 2009 Respondent has been suspended or otherwise prohibited from working as a
12 pharmacist at the direction of the Pharmacists Recovery Program or other treatment program,
13 Respondent may receive credit against this suspension period for such documented period(s).

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

22 Respondent shall not engage in any activity that requires the professional judgment of a
23 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
24 Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity
25 licensed by the Board. Subject to the above restrictions, Respondent may continue to own or hold
26 an interest in any pharmacy in which he holds an interest at the time this decision becomes
27 effective unless otherwise specified in this order.

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

3 Respondent shall report any of the following occurrences to the Board, in writing, within 72
4 hours of such occurrence:

5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
7 laws

8 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
9 criminal complaint, information or indictment

10 • a conviction of any crime

11 • discipline, citation, or other administrative action filed by any state and federal agency
12 which involves Respondent's license or which is related to the practice of pharmacy or the
13 manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or
14 controlled substance.

15 3. **Report to the Board.** Respondent shall report to the board quarterly, on a
16 schedule as directed by the board or its designee. The report shall be made either in person or in
17 writing, as directed. Among other requirements, Respondent shall state in each report under
18 penalty of perjury whether there has been compliance with all the terms and conditions of
19 probation. Failure to submit timely reports in a form as directed shall be considered a violation of
20 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
21 total period of probation. Moreover, if the final probation report is not made as directed,
22 probation shall be automatically extended until such time as the final report is made and accepted
23 by the board.

24 4. **Interview with the Board.** Upon receipt of reasonable prior notice, Respondent
25 shall appear in person for interviews with the board or its designee, at such intervals and locations
26 as are determined by the board or its designee. Failure to appear for any scheduled interview
27 without prior notification to board staff, or failure to appear for two (2) or more scheduled
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1 interviews with the board or its designee during the period of probation, shall be considered a
2 violation of probation.

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

7 **6. Continuing Education.** Respondent shall provide evidence of efforts to maintain
8 skill and knowledge as a pharmacist as directed by the board or its designee.

9 **7. Notice to Employers.** During the period of probation, Respondent shall notify all
10 present and prospective employers of the decision in case number 3387 and the terms, conditions
11 and restrictions imposed on Respondent by the decision, as follows:

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 Respondent undertaking any new employment, Respondent shall cause his or her direct
14 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during
15 Respondent's tenure of employment) and owner to report to the board in writing acknowledging
16 that the listed individual(s) has/have read the decision in case number 3387, and terms and
17 conditions imposed thereby. It shall be Respondent's responsibility to ensure that his employer(s)
18 and/or supervisor(s) submit timely acknowledgment(s) to the board.

19 If Respondent works for or is employed by or through a pharmacy employment service,
20 Respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
21 licensed by the board of the terms and conditions of the decision in case number 3387 in advance
22 of the Respondent commencing work at each licensed entity. A record of this notification must
23 be provided to the board upon request.

24 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
25 (15) days of Respondent undertaking any new employment by or through a pharmacy
26 employment service, Respondent shall cause his direct supervisor with the pharmacy employment
27 service to report to the board in writing acknowledging that he or she has read the decision in case
28 number 3387 and the terms and conditions imposed thereby. It shall be Respondent's

1 responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
2 acknowledgment(s) to the board.

3 Failure to timely notify present or prospective employer(s) or to cause that/those
4 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
5 probation.

6 "Employment" within the meaning of this provision shall include any full-time, part-time,
7 temporary, relief or pharmacy management service as a pharmacist or any position for which a
8 pharmacist license is a requirement or criterion for employment, whether the Respondent is an
9 employee, independent contractor or volunteer. If Respondent is employed by a corporation,
10 notice shall be given to the pharmacist-in-charge and the district manager, rather than the "owner"
11 of the corporation.

12 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge**
13 **(PIC), or Serving as a Consultant.** During the period of probation, Respondent shall not
14 supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-
15 charge of any entity licensed by the board nor serve as a consultant unless otherwise specified in
16 this order. Assumption of any such unauthorized supervision responsibilities shall be considered
17 a violation of probation.

18 9. **Reimbursement of Board Costs.** As a condition precedent to successful
19 completion of probation, Respondent shall pay to the board its costs of investigation and
20 prosecution in the amount of \$7040.00. Respondent shall make said payments as follows:
21 Monthly payments in the amount of \$176.00, for 40 months. Should Respondent file for
22 bankruptcy, such filing, or discharge of debts by a Bankruptcy Court, will not relieve him of his
23 obligation to pay costs of investigation and prosecution.

24 10. **Probation Monitoring Costs.** Respondent shall pay any costs associated with
25 probation monitoring as determined by the board each and every year of probation. Such costs
26 shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay
27 such costs by the deadline(s) as directed shall be considered a violation of probation.

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1 11. **Status of License.** Respondent shall, at all times while on probation, maintain an
2 active, current license with the board, including any period during which suspension or probation
3 is tolled. Failure to maintain an active, current license shall be considered a violation of
4 probation.

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

9 12. **License Surrender while on Probation/Suspension.** Following the effective
10 date of this decision, should Respondent cease practice due to retirement or health, or be
11 otherwise unable to satisfy the terms and conditions of probation, Respondent may tender his
12 license to the board for surrender. The board or its designee shall have the discretion whether to
13 grant the request for surrender or take any other action it deems appropriate and reasonable.
14 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
15 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
16 become a part of the Respondent's license history with the board.

17 Upon acceptance of the surrender, Respondent shall relinquish his pocket and wall license
18 to the board within ten (10) days of notification by the board that the surrender is accepted.
19 Respondent may not reapply for any license from the board for three (3) years from the effective
20 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
21 of the date the application for that license is submitted to the board, including any outstanding
22 costs.

23 13. **Notification of Employment/Mailing Address Change.** Respondent shall notify
24 the board in writing within ten (10) days of any change of employment. Said notification shall
25 include the reasons for leaving, the address of the new employer, the name of the supervisor and
26 owner, and the work schedule if known. Respondent shall further notify the board in writing
27 within ten (10) days of a change in name, residence address, mailing address, or phone number.
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1 14. **Tolling of Probation.** Except during periods of suspension, Respondent
2 shall, at all times while on probation, be employed as a pharmacist in California for a minimum of
3 40 hours per calendar month. Any month during which this minimum is not met shall toll the
4 period of probation, i.e., the period of probation shall be extended by one month for each month
5 during which this minimum is not met. During any such period of tolling of probation,
6 Respondent must nonetheless comply with all terms and conditions of probation.

7 Should Respondent, regardless of residency, for any reason (including vacation) cease
8 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,
9 Respondent must notify the board in writing within ten (10) days of the cessation of practice, and
10 must further notify the board in writing within ten (10) days of the resumption of practice. Any
11 failure to provide such notification(s) shall be considered a violation of probation.

12 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
13 provisions of this condition for a total period, counting consecutive and non-consecutive months,
14 exceeding thirty-six (36) months.

15 "Cessation of practice" means any calendar month during which Respondent is not
16 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions Code
17 section 4000 et seq. "Resumption of practice" means any calendar month during which
18 Respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as defined by
19 Business and Professions Code section 4000 et seq.

20 15. **Violation of Probation.** If Respondent has not complied with any term or
21 condition of probation, the board shall have continuing jurisdiction over Respondent, and
22 probation shall automatically be extended, until all terms and conditions have been satisfied or the
23 board has taken other action as deemed appropriate to treat the failure to comply as a violation of
24 probation, to terminate probation, and to impose the penalty that was stayed.

25 If Respondent violates probation in any respect, the board, after giving Respondent notice
26 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
27 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
28 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If

1 a petition to revoke probation or an accusation is filed against Respondent during probation, the
2 board shall have continuing jurisdiction and the period of probation shall be automatically
3 extended until the petition to revoke probation or accusation is heard and decided.

4 16. **Completion of Probation.** Upon written notice by the board or its designee
5 indicating successful completion of probation, Respondent's license will be fully restored.

6 17. **Pharmacists Recovery Program (PRP).** Within thirty (30) days of the effective
7 date of this decision, Respondent shall contact the Pharmacists Recovery Program (PRP) for
8 evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the
9 treatment contract and any subsequent addendums as recommended and provided by the PRP and
10 as approved by the board or its designee. The costs for PRP participation shall be borne by the
11 Respondent.

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

16 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
17 the treatment contract and/or any addendums, shall be considered a violation of probation.

18 Probation shall be automatically extended until Respondent successfully completes the
19 PRP. Any person terminated from the PRP program shall be automatically suspended by the
20 board. Respondent may not resume the practice of pharmacy until notified by the board in
21 writing.

22 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
23 licensed practitioner as part of a documented medical treatment shall result in the automatic
24 suspension of practice by Respondent and shall be considered a violation of probation.

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

26 During suspension, Respondent shall not enter any pharmacy area or any portion of the
27 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
28 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices

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

6 During suspension, Respondent shall not engage in any activity that requires the
7 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
8 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
9 designated representative for any entity licensed by the board. Subject to the above restrictions,
10 Respondent may continue to own or hold an interest in any licensed premises in which he or she
11 holds an interest at the time this decision becomes effective unless otherwise specified in this
12 order.

13 Failure to comply with this suspension shall be considered a violation of probation.

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

17 **18. Random Drug Screening.** Respondent, at his own expense, shall participate in
18 random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer,
19 hair follicle testing, or other drug screening program as directed by the board or its designee.
20 Respondent may be required to participate in testing for the entire probation period and the
21 frequency of testing will be determined by the board or its designee. At all times, Respondent
22 shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests
23 and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled
24 substances as the board or its designee may direct. Failure to timely submit to testing as directed
25 shall be considered a violation of probation. Upon request of the board or its designee,
26 Respondent shall provide documentation from a licensed practitioner that the prescription for a
27 detected drug was legitimately issued and is a necessary part of the treatment of the Respondent.
28 Failure to timely provide such documentation shall be considered a violation of probation. Any

1 confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed
2 practitioner as part of a documented medical treatment shall be considered a violation of
3 probation and shall result in the automatic suspension of practice of pharmacy by Respondent.
4 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

13 During suspension Respondent shall not engage in any activity that requires the
14 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
15 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
16 designated representative for any entity licensed by the board. Subject to the above restrictions,
17 Respondent may continue to own or hold an interest in any licensed premises in which he or she
18 holds an interest at the time this decision becomes effective unless otherwise specified in this
19 order.

20 Failure to comply with this suspension shall be considered a violation of probation.

21 **19. Abstain from Drugs and Alcohol Use.** Respondent shall completely abstain
22 from the possession or use of alcohol, controlled substances, dangerous drugs and their associated
23 paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a
24 documented medical treatment. Upon request of the board or its designee, Respondent shall
25 provide documentation from the licensed practitioner that the prescription for the drug was
26 legitimately issued and is a necessary part of the treatment of the Respondent. Failure to timely
27 provide such documentation shall be considered a violation of probation. Respondent shall
28 ensure that he or she is not in the same physical location as individuals who are using illicit

1 substances even if Respondent is not personally ingesting the drugs. Any possession or use of
2 alcohol, controlled substances, or their associated paraphernalia not supported by the
3 documentation timely provided, and/or any physical proximity to persons using illicit substances,
4 shall be considered a violation of probation.

5 **20. Supervised Practice.** During the period of probation, Respondent shall practice
6 only under the supervision of a licensed pharmacist not on probation with the board. Upon and
7 after the effective date of this decision, Respondent shall not practice pharmacy and his or her
8 license shall be automatically suspended until a supervisor is approved by the board or its
9 designee. The supervision shall be, as required by the board or its designee, either:

10 Continuous – At least 75% of a work week

11 Substantial - At least 50% of a work week

12 Partial - At least 25% of a work week

13 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

14 Within thirty (30) days of the effective date of this decision, Respondent shall have his
15 supervisor submit notification to the board in writing stating that the supervisor has read the
16 decision in case number 3387 and is familiar with the required level of supervision as determined
17 by the board or its designee. It shall be the Respondent's responsibility to ensure that his
18 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
19 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
20 acknowledgements to the board shall be considered a violation of probation.

21 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
22 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
23 acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15)
24 days after employment commences, submit notification to the board in writing stating the direct
25 supervisor and pharmacist-in-charge have read the decision in case number 3387 and is familiar
26 with the level of supervision as determined by the board. Respondent shall not practice pharmacy
27 and his license shall be automatically suspended until the board or its designee approves a new
28

1 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
2 acknowledgements to the board shall be considered a violation of probation.

3 Within ten (10) days of leaving employment, Respondent shall notify the board in writing.

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

12 During suspension, Respondent shall not engage in any activity that requires the
13 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
14 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
15 designated representative for any entity licensed by the board. Subject to the above restrictions,
16 Respondent may continue to own or hold an interest in any licensed premises in which he or she
17 holds an interest at the time this decision becomes effective unless otherwise specified in this
18 order.

19 Failure to comply with this suspension shall be considered a violation of probation.

20 21. **No Ownership of Premises.** Respondent shall not own, have any legal or
21 beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee,
22 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
23 licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any
24 entity licensed by the board within ninety (90) days following the effective date of this decision
25 and shall immediately thereafter provide written proof thereof to the board. Failure to timely
26 divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a
27 violation of probation.

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1 22. **Tolling of Suspension.** During the period of suspension, Respondent shall not
2 leave California for any period exceeding fourteen (14) days, regardless of purpose (including
3 vacation). Any such absence in excess of the (14) days during suspension shall be considered a
4 violation of probation. Moreover, any absence from California during the period of suspension
5 exceeding fourteen (14) days shall toll the suspension, i.e., the suspension shall be extended by
6 one day for each day over fourteen (14) days Respondent is absent from California. During any
7 such period of tolling of suspension, Respondent must nonetheless comply with all terms and
8 conditions of probation.

9 Respondent must notify the board in writing within ten (10) days of departure, and must
10 further notify the board in writing within ten (10) days of return. The failure to provide such
11 notification(s) shall constitute a violation of probation. Upon such departure and return,
12 Respondent shall not resume the practice of pharmacy until notified by the board that the period
13 of suspension has been satisfactorily completed.

14 23. **Ethics Course.** Within sixty (60) calendar days of the effective date of this decision,
15 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in advance by
16 the board or its designee. Failure to initiate the course during the first year of probation, and
17 complete it within the second year of probation, is a violation of probation.

18 Respondent shall submit a certificate of completion to the board or its designee within five
19 days after completing the course.

20
21 ACCEPTANCE

22 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
23 discussed it with my attorney, Jonathan A. Klein. I understand the stipulation and the effect it
24 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
25 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
26 of the Board of Pharmacy.

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DATED: 9/11/09

Philip Martin Koerpel
PHILIP MARTIN KOERPEL
Respondent

I have read and fully discussed with Respondent Philip Martin Koerpel the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/14/09

[Signature]
JONATHAN A. KLEIN
Attorney for Respondent

ENDORSEMENT

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

Dated: 9/18/09

Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General
[Signature]
CHAR SACHSON
Deputy Attorney General
Attorneys for Complainant

SF2009201571

Exhibit A

Amended Accusation No. 3387

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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5 Telephone: (415) 703-5558
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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11
12 PHILIP MARTIN KOERPEL
42 Rossi Avenue
San Francisco, California 94118
13 Pharmacist License No. RPH 39167
14 Respondent.

Case No. 3387
AMENDED ACCUSATION

15
16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
20 Affairs.
21 2. On or about March 11, 1985, the Board of Pharmacy issued Pharmacist
22 License Number RPH 39167 to Philip Martin Koerpel (Respondent). The Pharmacist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 February 28, 2011, unless renewed.

25
26 JURISDICTION

- 27 3. This Accusation is brought before the Board of Pharmacy (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 4011 of the Code provides that the Board shall administer and
3 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled
4 Substances Act [Health & Safety Code, § 11000 et seq.].

5 5. Section 4300 of the Code states:

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

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

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

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

13 "(4) Revoking his or her license.

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

16
17 "(e) The proceedings under this article shall be conducted in accordance with
18 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,
19 and the board shall have all the powers granted therein. The action shall be final, except that the
20 propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of
21 the Code of Civil Procedure."

22 6. Section 4301 of the Code states:

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

27 "(a) Gross immorality.

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

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

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

10

11 7. Section 4022 of the Code states

12 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
13 self-use in humans or animals, and includes the following:

14 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
15 without prescription," "Rx only," or words of similar import.

16 "(b) Any device that bears the statement: "Caution: federal law restricts this
17 device to sale by or on the order of a _____," "Rx only," or words of similar import, the
18 blank to be filled in with the designation of the practitioner licensed to use or order use of the
19 device.

20 "(c) Any other drug or device that by federal or state law can be lawfully
21 dispensed only on prescription or furnished pursuant to Section 4006."

22 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any
23 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

24 9. Section 4060 of the Code provides, in pertinent part, that no person shall
25 possess any controlled substance, except that furnished upon a valid prescription/drug order.

26 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
27 a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs
28 and devices."

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SECOND CAUSE FOR DISCIPLINE

(Acts Involving Gross Immorality)

24. Respondent is subject to discipline under section 4301(g) of the Code in that Respondent, as described in paragraph 22 above, committed acts involving gross immorality.

THIRD CAUSE FOR DISCIPLINE

(Unlawful Furnishing)

25. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or section 4059 of the Code, in that Respondent, as described in paragraph 22 above, furnished and/or conspired to furnish, and/or assisted in or abetted the furnishing of, unknown quantities controlled substances and/or dangerous drugs, without a valid prescription.

FOURTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or section 4060 of the Code, in that Respondent, as described in paragraph 22 above, possessed, conspired to possess, and/or assisted in or abetted the possession of, unknown quantities of controlled substances and/or dangerous drugs, without a valid prescription.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraph 22 above, engaged in unprofessional conduct.

SIXTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Alprazolam)

1 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

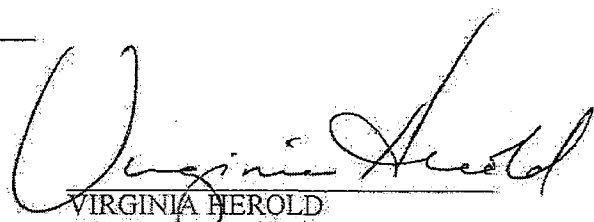
2 1. Revoking or suspending Pharmacist License Number RPH 39167, issued
3 to Philip Martin Koerpel.

4 2. Ordering Philip Martin Koerpel to pay the Board of Pharmacy the
5 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
6 Professions Code section 125.3;

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

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DATED: 7/27/09



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2008402755

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